

CHAPTER 149

S.B. No. 896

AN ACT

relating to the adoption of a nonsubstantive revision of the statutes relating to local government, including conforming amendments, repeals, and penalties.

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

SECTION 1. ADOPTION OF CODE. The Local Government Code is adopted to read as follows:

LOCAL GOVERNMENT CODE

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CHAPTER 1. GENERAL PROVISIONS

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LOCAL GOVERNMENT CODE

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

Sec. 1.001. PURPOSE OF CODE. (a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in the law codified as Chapter 323 of the Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the law encompassed by this code more accessible and understandable, by:

- (1) rearranging the statutes into a more logical order;
- (2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible. (New.)

Sec. 1.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311 of the Government Code) applies to the construction of each provision in this code except as otherwise expressly provided by this code. (New.)

Sec. 1.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears. (New.)

Sec. 1.004. REFERENCE IN LAW TO STATUTE REVISED BY CODE. A reference in a law to a statute or a part of a statute revised by this code is considered to be a reference to the part of this code that revises that statute or part of the statute. (New.)

Sec. 1.005. DEFINITIONS. In this code:

(1) "General-law municipality" means a municipality designated by Chapter 5 as a Type A general-law municipality, Type B general-law municipality, or Type C general-law municipality.

(2) "Home-rule municipality" means a municipality designated by Chapter 5 as a home-rule municipality.

(3) "Municipality" means a general-law municipality, home-rule municipality, or special-law municipality.

(4) "Special-law municipality" means a municipality designated by Chapter 5 as a special-law municipality. (New.)

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TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT

SUBTITLE A. TYPES OF MUNICIPALITIES

CHAPTER 5. TYPES OF MUNICIPALITIES IN GENERAL

SUBCHAPTER A. TYPES OF MUNICIPALITIES

Sec. 5.001. TYPE A GENERAL-LAW MUNICIPALITY. A municipality is a Type A general-law municipality if it:

(1) has incorporated as a Type A general-law municipality under Subchapter A of Chapter 6 and has not acted to change to another type of municipality;

(2) has changed to a Type A general-law municipality under Subchapter B of Chapter 6 and has not acted to change to another type of municipality; or

(3) operated, immediately preceding September 1, 1987, under Chapters 1-10, Title 28, Revised Statutes, and has not acted to change to another type of municipality. (New.)

Sec. 5.002. **TYPE B GENERAL-LAW MUNICIPALITY.** A municipality is a Type B general-law municipality if it:

(1) has incorporated as a Type B general-law municipality under Chapter 7 and has not acted to change to another type of municipality; or

(2) operated, immediately preceding September 1, 1987, under Chapter 11, Title 28, Revised Statutes, and has not acted to change to another type of municipality. (New.)

Sec. 5.003. **TYPE C GENERAL-LAW MUNICIPALITY.** A municipality is a Type C general-law municipality if it:

(1) has incorporated as a Type C general-law municipality under Subchapter A of Chapter 8 and has not acted to change to another type of municipality;

(2) has changed to a Type C general-law municipality under Subchapter B of Chapter 8 and has not acted to change to another type of municipality; or

(3) operated, immediately preceding September 1, 1987, under Chapter 12, Title 28, Revised Statutes, and has not acted to change to another type of municipality. (New.)

Sec. 5.004. **HOME-RULE MUNICIPALITY.** A municipality is a home-rule municipality if it operates under a municipal charter that has been adopted or amended as authorized by Article XI, Section 5, of the Texas Constitution. (New.)

Sec. 5.005. **SPECIAL-LAW MUNICIPALITY.** (a) A municipality is a special-law municipality if it operates under a municipal charter granted by a local law enacted by the Congress of the Republic of Texas or by the legislature.

(b) A special-law municipality that has amended its municipal charter as authorized by Article XI, Section 5, of the Texas Constitution is also a home-rule municipality. (New.)

[Sections 5.006-5.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS AFFECTING TYPES OF MUNICIPALITIES

Sec. 5.901. **TERRITORIAL REQUIREMENTS FOR INCORPORATION AS GENERAL-LAW MUNICIPALITY.** A community may not incorporate as a general-law municipality unless it meets the following territorial requirements:

(1) a community with fewer than 2,000 inhabitants must have not more than two square miles of surface area;

(2) a community with 2,001 to 4,999 inhabitants must have not more than four square miles of surface area; and

(3) a community with 5,001 to 9,999 inhabitants must have not more than nine square miles of surface area. (V.A.C.S. Art. 971 (part).)

Sec. 5.902. **CHANGE IN DESIGNATION FROM TOWN TO CITY.** (a) The governing body of a Type A general-law municipality that was designated as a "town" may change by ordinance its designation to a "city."

(b) A change in designation does not affect the municipality's corporate existence or powers.

(c) Bonds that are voted by a municipality and are unissued before the municipality changes its designation may be issued in the new name of the municipality as designated in the ordinance changing the designation. (V.A.C.S. Art. 1153a.)

Sec. 5.903. **CHARTER AMENDMENTS BY SPECIAL-LAW MUNICIPALITY INCORPORATED BEFORE JUNE 30, 1881.** (a) A special-law municipality that was incorpo-

rated as a town or village before June 30, 1881, by the Congress of the Republic of Texas or by the legislature may amend its charter in any regard that does not conflict with the law of this state if the amendment is approved by a resolution of the governing body of the town or village and by at least a two-thirds vote at an election held to ratify the amendment.

(b) An amendment to a charter under Subsection (a) is not effective until:

- (1) the governing body of the town or village adopts a resolution stating the amendment; and
- (2) a certified copy of the amendment is approved by the attorney general and recorded with the secretary of state. (V.A.C.S. Art. 1153.)

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CHAPTER 6. TYPE A GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. INCORPORATION AS TYPE A GENERAL-LAW MUNICIPALITY

Sec. 6.001. AUTHORITY TO INCORPORATE AS TYPE A GENERAL-LAW MUNICIPALITY. A community may incorporate under this subchapter as a Type A general-law municipality if it:

- (1) constitutes an unincorporated city or town;
- (2) contains 600 or more inhabitants; and
- (3) meets the territorial requirements prescribed by Section 5.901. (V.A.C.S. Art. 966 (part); New.)

Sec. 6.002. INCORPORATION PROCEDURE. The procedure for incorporating as a Type A general-law municipality is the same as that prescribed for incorporating as a Type B general-law municipality except the application to become incorporated must be signed by at least 50 qualified voters who are residents of the community. (V.A.C.S. Art. 966 (part).)

Sec. 6.003. EFFECTIVE DATE OF INCORPORATION. The incorporation of the community as a municipality is effective on the date the county judge makes the entry, under Section 7.007, in the records of the commissioners court. (V.A.C.S. Art. 966 (part).)

[Sections 6.004–6.010 reserved for expansion]

SUBCHAPTER B. CHANGE FROM ANOTHER MUNICIPAL TYPE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 6.011. AUTHORITY TO CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. (a) A municipality incorporated in any manner other than as a Type A general-law municipality may change to a Type A general-law municipality if the municipality:

- (1) has 600 or more inhabitants;
 - (2) contains one or more manufacturing establishments within its corporate limits;
- or
- (3) is incorporated under any law of the Republic of Texas.

(b) A municipality that makes the change shall operate under the law applying to a Type A general-law municipality instead of operating under any charter or law that previously governed the municipality. (V.A.C.S. Arts. 961 (part), 967 (part).)

Sec. 6.012. PROCEDURE FOR CHANGE. If a municipality wishes to change to a Type A general-law municipality:

- (1) at least two-thirds of the governing body of the municipality at a regular meeting must vote to make the change and the vote must be recorded in the journal of the governing body's proceedings;
- (2) a copy of the record of the proceedings must be signed by the mayor;
- (3) a copy of the record of the proceedings must be attested by the municipality's clerk or secretary under the corporate seal; and
- (4) a copy of the record of the proceedings must be filed and recorded in the office of the county clerk of the county in which the municipality is located. (V.A.C.S. Arts. 961 (part), 967 (part).)

Sec. 6.013. REPEAL OF LOCAL LAW AFTER CHANGE. Any local law that incorporated a municipality that changes to a Type A general-law municipality under this subchapter is repealed on the date on which the copy of the record of the proceedings is filed. (V.A.C.S. Arts. 961 (part), 967 (part).)

Sec. 6.014. CHANGE DOES NOT AFFECT PRIOR NAME OR STATUS AS BODY CORPORATE. A municipality that changes to a Type A general-law municipality retains the prior name by which it was known and continues to be a body corporate with perpetual succession. (V.A.C.S. Arts. 962 (part), 968 (part).)

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CHAPTER 7. TYPE B GENERAL-LAW MUNICIPALITY

Sec. 7.001. AUTHORITY TO INCORPORATE AS TYPE B GENERAL-LAW MUNICIPALITY. A community may incorporate under this chapter as a Type B general-law municipality if it:

- (1) constitutes an unincorporated town or village;
- (2) contains 201 to 9,999 inhabitants; and
- (3) meets the territorial requirements prescribed by Section 5.901. (V.A.C.S. Art. 1133; New.)

Sec. 7.002. APPLICATION TO INCORPORATE. (a) The residents of a community may initiate an attempt to incorporate the community under this chapter by filing with the county judge of the county in which the community is located an application to incorporate signed by at least 20 qualified voters who are residents of the community.

(b) The application must state the proposed boundaries and name of the municipality, and it must be accompanied by a plat of the proposed municipality that contains only the territory to be used strictly for municipal purposes.

(c) If a community is located in two counties, the application to incorporate may be filed with the county judge of either county. (V.A.C.S. Art. 1134 (part).)

Sec. 7.003. ELECTION ORDER. If satisfactory proof is made that a community that has filed an application to incorporate under this chapter contains the requisite number of inhabitants, the county judge shall order an incorporation election to be held on a specified date and at a designated place in the community. (V.A.C.S. Art. 1136 (part).)

Sec. 7.004. ELECTION OFFICERS. The county judge shall appoint an officer to preside at an incorporation election under this chapter. The presiding officer shall appoint two election judges and two election clerks to assist in conducting the election. (V.A.C.S. Art. 1136 (part).)

Sec. 7.005. NOTICE OF ELECTION. An incorporation election under this chapter may not be held until notice of the election has been posted at three public places in the community for the 10 days preceding the date of the election. (V.A.C.S. Art. 1136 (part).)

Sec. 7.006. QUALIFIED VOTERS. Each qualified voter who resides within the boundaries of the proposed municipality may vote at the election. (V.A.C.S. Art. 1137.)

Sec. 7.007. ORDER OF INCORPORATION. (a) Within 20 days after the date the county judge receives the returns of an incorporation election, the judge shall, if a majority of the votes cast are for incorporation, make an entry in the records of the commissioners court that the community is incorporated. The judge shall include the boundaries of the municipality in the entry. The incorporation of the community as a municipality is effective on the date the entry is made.

(b) A certified copy of the entry and a plat of the municipality shall be recorded in the deed records of the county in which the municipality is located. (V.A.C.S. Arts. 1139, 1140 (part).)

Sec. 7.008. INTERVAL BETWEEN ELECTIONS. A county judge may not order an incorporation election under this chapter to be held earlier than one year after the date of the most recent incorporation election under this chapter. (V.A.C.S. Art. 1134 (part).)

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Sec. 8.022. PETITION TO CHANGE

Sec. 8.023. ELECTION ORDER

Sec. 8.024. ELECTION OFFICERS

Sec. 8.025. NOTICE OF ELECTION

Sec. 8.026. ORDER OF CHANGE

CHAPTER 8. TYPE C GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. INCORPORATION AS TYPE C GENERAL-LAW MUNICIPALITY

Sec. 8.001. AUTHORITY TO INCORPORATE AS TYPE C GENERAL-LAW MUNICIPALITY. (a) A community may incorporate under this subchapter as a Type C general-law municipality if it:

- (1) constitutes an unincorporated city, town, or village;

(2) contains 201 to 4,999 inhabitants; and

(3) meets the territorial requirements prescribed by Section 5.901.

(b) A community incorporating as a Type C general-law municipality adopts the commission form of government. (V.A.C.S. Art. 1155 (part).)

Sec. 8.002. **PETITION TO INCORPORATE.** The residents of a community may initiate an attempt to incorporate under this subchapter by filing with the county judge a written petition signed by at least 10 percent of the qualified voters of the community. The petition must request the county judge to order an election to determine whether the community will incorporate as a Type C general-law municipality. (V.A.C.S. Art. 1154, Sec. 1 (part); Art. 1155 (part).)

Sec. 8.003. **ELECTION ORDER.** If a county judge receives the petition and if satisfactory proof is made that the community contains the requisite number of inhabitants, the judge shall order an incorporation election to be held on a specified date and at a designated place in the community. (V.A.C.S. Art. 1155 (part).)

Sec. 8.004. **ELECTION OFFICERS.** The county judge shall appoint two election judges and two election clerks to conduct the incorporation election under this subchapter. The county judge shall designate one of the election judges to be the presiding judge. (V.A.C.S. Art. 1157 (part).)

Sec. 8.005. **NOTICE OF ELECTION.** Notice of an incorporation election under this subchapter must be published in a newspaper in the community before the 30th day before the date of the election, or if there is no newspaper in the community, the notice must be posted at three public places in the community for the 30 days preceding the date of the election. (V.A.C.S. Art. 1154, Sec. 1 (part); Art. 1155 (part).)

Sec. 8.006. **ORDER OF INCORPORATION.** If a majority of the votes cast in an election under this subchapter are for incorporation, the county judge shall enter an order in the minutes of the commissioners court that the community is incorporated. The incorporation is effective on the date the order is entered. (V.A.C.S. Art. 1157 (part).)

[Sections 8.007–8.020 reserved for expansion]

SUBCHAPTER B. CHANGE FROM ANOTHER MUNICIPAL TYPE TO TYPE C GENERAL-LAW MUNICIPALITY

Sec. 8.021. **AUTHORITY TO CHANGE TO TYPE C GENERAL-LAW MUNICIPALITY.** (a) A Type A general-law municipality containing 501 to 4,999 inhabitants or a Type B general-law municipality containing 501 to 999 inhabitants may change to a Type C general-law municipality.

(b) A municipality changing to a Type C general-law municipality adopts the commission form of government. (V.A.C.S. Art. 1154, Sec. 1 (part).)

Sec. 8.022. **PETITION TO CHANGE.** The residents of a municipality may initiate an attempt to make the change under this subchapter by filing with the mayor of the municipality a written petition signed by at least 10 percent of the qualified voters of the municipality. The petition must request the mayor to order an election to determine whether the municipality will change to a Type C general-law municipality. (V.A.C.S. Art. 1154, Sec. 1 (part).)

Sec. 8.023. **ELECTION ORDER.** If the mayor receives the petition, the mayor shall order an election on the question of the change to be held in the municipality. (V.A.C.S. Art. 1154, Sec. 1 (part).)

Sec. 8.024. **ELECTION OFFICERS.** The mayor shall appoint two election judges and two election clerks to conduct the election under this subchapter. The mayor shall designate one of the election judges to be the presiding judge. (V.A.C.S. Art. 1157 (part).)

Sec. 8.025. **NOTICE OF ELECTION.** In addition to the notice required by Chapter 4, Election Code, notice of an election under this subchapter must be published in a newspaper in the municipality before the 30th day before the date of the election, or if there is no newspaper in the municipality, the notice must be posted at three public places

in the municipality for the 30 days preceding the date of the election. (V.A.C.S. Art. 1154, Sec. 1 (part).)

Sec. 8.026. ORDER OF CHANGE. If a majority of the votes cast in an election under this subchapter are for the change, the mayor shall enter an order in the minutes of the municipality's governing body that the municipality is changed. The change is effective from the time the order is entered. (V.A.C.S. Art. 1157 (part).)

CHAPTER 9. HOME-RULE MUNICIPALITY

- Sec. 9.001. ADOPTION OR AMENDMENT OF HOME-RULE CHARTER
- Sec. 9.002. SELECTION OF CHARTER COMMISSION
- Sec. 9.003. VOTE ON CHARTER
- Sec. 9.004. CHARTER AMENDMENTS
- Sec. 9.005. ADOPTION OF CHARTER OR AMENDMENT
- Sec. 9.006. CONCURRENT ELECTIONS
- Sec. 9.007. CERTIFICATION OF CHARTER OR AMENDMENT
- Sec. 9.008. REGISTRATION OF CHARTER OR AMENDMENT; EFFECT

CHAPTER 9. HOME-RULE MUNICIPALITY

Sec. 9.001. ADOPTION OR AMENDMENT OF HOME-RULE CHARTER. This chapter applies to the adoption or amendment of a municipal charter by a municipality authorized to do so by Article XI, Section 5, of the Texas Constitution. (V.A.C.S. Art. 1165 (part).)

Sec. 9.002. SELECTION OF CHARTER COMMISSION. (a) The governing body of the municipality may, by an ordinance adopted by at least a two-thirds vote of its membership, order an election by the voters of the municipality on the question: "Shall a commission be chosen to frame a new charter?" The governing body shall by ordinance order the election if presented with a petition signed by at least 10 percent of the qualified voters of the municipality.

(b) The election ordinance shall provide for the election to be held on the date of the municipality's next general election scheduled after the 30th day but on or before the 90th day after the date the ordinance is adopted. However, if no general election is scheduled during that period that allows sufficient time to comply with other requirements of law, the election shall be ordered for the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs after the 30th day after the date the ordinance is adopted and published in a newspaper published in the municipality.

(c) The ballot at the election on the question prescribed by Subsection (a) shall also provide for the election from the municipality at large of a charter commission to draft a charter if a majority of the qualified voters voting on the question of choosing a charter commission approve the question. The commission must consist of at least 15 members, but if it has more than 15 members it may not have more than one member for each 3,000 inhabitants of the municipality. The ballot may not contain any party designation.

(d) The provisions of Subsections (a), (b), and (c) regarding the selection of a charter commission do not apply to the first charter election in a municipality if:

- (1)(A) the governing body of the municipality selects a charter commission;
- (B) a charter commission is selected at a mass meeting; or
- (C) the mayor of the municipality appoints a charter commission; and

(2) the charter commission has proceeded with the formation of a charter for the municipality. (V.A.C.S. Arts. 1165 (part), 1166, 1168.)

Sec. 9.003. VOTE ON CHARTER. (a) The charter prepared by the charter commission shall be submitted to the qualified voters of the municipality at an election to be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs on or after the 40th day after the date the charter commission completes its work. The governing body

of the municipality shall provide for the submission of the charter at the election to the extent that the provisions for submission are not prescribed by general law.

(b) Before the 30th day before the date of the election, the governing body of the municipality shall order the city clerk or the city secretary to mail a copy of the proposed charter to each registered voter of the municipality.

(c) The charter commission shall prepare the charter so that to the extent practicable each subject may be voted on separately. (V.A.C.S. Art. 1167.)

Sec. 9.004. CHARTER AMENDMENTS. (a) The governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality or 20,000, whichever number is the smaller.

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs on or after the 30th day after the date the ordinance is adopted.

(c) Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:

(1) include a substantial copy of the proposed amendment; and

(2) be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

(d) An amendment may not contain more than one subject.

(e) The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments. (V.A.C.S. Art. 1170 (part).)

Sec. 9.005. ADOPTION OF CHARTER OR AMENDMENT. (a) A proposed charter for a municipality or a proposed amendment to a municipality's charter is adopted if it is approved by a majority of the qualified voters of the municipality who vote at an election held for that purpose.

(b) A charter or an amendment does not take effect until the governing body of the municipality enters an order in the records of the municipality declaring that the charter or amendment is adopted. (V.A.C.S. Arts. 1165 (part), 1169, 1170 (part).)

Sec. 9.006. CONCURRENT ELECTIONS. This chapter does not prevent the voters at an election to adopt a charter or an amendment to a charter from electing at the same election persons to hold office under the charter or amendment. (V.A.C.S. Art. 1172.)

Sec. 9.007. CERTIFICATION OF CHARTER OR AMENDMENT. (a) As soon as practicable after a municipality adopts a charter or charter amendment, the mayor or chief executive officer of the municipality shall certify to the secretary of state an authenticated copy of the charter or amendment under the municipality's seal showing the approval by the voters of the municipality.

(b) The secretary of state shall file and record the certification in his office in a book kept for that purpose. (V.A.C.S. Art. 1173.)

Sec. 9.008. REGISTRATION OF CHARTER OR AMENDMENT; EFFECT. (a) The secretary or other officer of a municipality performing functions similar to those of a secretary shall record in the secretary's or other officer's office a charter or charter amendment adopted by the voters of the municipality. If a charter or amendment is not recorded on microfilm, as may be permitted under another law, it shall be recorded in a book kept for that purpose.

(b) Recorded charters or amendments are public acts. Courts shall take judicial notice of them, and no proof is required of their provisions. (V.A.C.S. Art. 1174 (part).)

[Chapters 10–20 reserved for expansion]

SUBTITLE B. MUNICIPAL FORM OF GOVERNMENT

CHAPTER 21. GENERAL PROVISIONS AFFECTING GOVERNING BODY OF
GENERAL-LAW MUNICIPALITY

Sec. 21.001. ELECTION OF ALDERMEN BY PLACE SYSTEM IN GENERAL-LAW
MUNICIPALITY

Sec. 21.002. REMOVAL OF MAYOR OR ALDERMAN IN GENERAL-LAW MUNICI-
PALITY

SUBTITLE B. MUNICIPAL FORM OF GOVERNMENT

CHAPTER 21. GENERAL PROVISIONS AFFECTING GOVERNING BODY OF
GENERAL-LAW MUNICIPALITY

Sec. 21.001. ELECTION OF ALDERMEN BY PLACE SYSTEM IN GENERAL-LAW
MUNICIPALITY. (a) The governing body of a general-law municipality that is not divided
into wards and that elects its aldermen at large may provide by ordinance for the election
of aldermen under a place system.

(b) The ordinance must be enacted before the 60th day before the date of the first
regular municipal election of aldermen under a place system.

(c) As soon as possible after the place system ordinance is enacted, the governing
body shall assign place numbers to each alderman's office.

(d) When incumbent aldermen's terms of office expire, any candidate for the office of
alderman shall file an application for a specific place on the governing body, such as
"Alderman, Place No. 1."

(e) The ballot for an election under the place system must show each office of
alderman as a separate office designated by place number. (V.A.C.S. Art. 980b.)

Sec. 21.002. REMOVAL OF MAYOR OR ALDERMAN IN GENERAL-LAW MUNICI-
PALITY. (a) This section applies only to a general-law municipality.

(b) In this section:

(1) "Incompetency" means:

(A) gross ignorance of official duties;

(B) gross carelessness in the discharge of official duties; or

(C) inability or unfitness to promptly and properly discharge official duties
because of a serious mental or physical defect that did not exist at the time of the
officer's election.

(2) "Official misconduct" means intentional unlawful behavior relating to official
duties by an officer entrusted with the administration of justice or the execution of the
law. The term includes an intentional or corrupt failure, refusal, or neglect of an
officer to perform a duty imposed on the officer by law.

(c) The mayor or an alderman of a municipality may be removed from office for:

(1) official misconduct;

(2) intentional violation of a municipal ordinance;

(3) habitual drunkenness;

(4) incompetency; or

(5) a cause prescribed by a municipal ordinance.

(d) When a written sworn complaint that charges an alderman with an act or omission that constitutes grounds for removal from office is presented to the mayor, the mayor shall:

- (1) file the complaint;
- (2) cause a copy of the complaint to be served on the charged alderman;
- (3) set a date for the trial of the case; and
- (4) notify the charged alderman and the other aldermen of the municipality to appear on that day.

(e) The mayor and aldermen, except the charged alderman, constitute a court to try and determine the case against the charged alderman.

(f) When such a complaint is made against the mayor, the complaint must be presented to an alderman of the municipality. That alderman shall:

- (1) file the complaint;
- (2) cause a copy of the complaint to be served on the mayor;
- (3) set a date for the trial of the case; and
- (4) notify the mayor and the other aldermen to appear on that day.

(g) A majority of the aldermen constitutes a court to try and determine the case against the mayor. The aldermen shall select one of the aldermen to preside during the trial.

(h) A proceeding under this section is subject to the rules governing a proceeding or trial in a justice court. If two-thirds of the members of the court who are present at the trial of the case find the defendant guilty of the charges contained in the complaint and find that the charges are sufficient cause for removal from office, the presiding officer of the court shall enter a judgment removing the charged officer and declaring the office vacant. If the defendant is found not guilty, judgment shall be entered accordingly.

(i) An officer removed under this section is not eligible for reelection to the same office for two years after the date of the removal.

(j) An officer may not be removed under this section for an act the officer committed before election to office. (V.A.C.S. Art. 5972, Sec. (a) (part); Arts. 5973, 5974, 5986, 5991, 5992, 5993, 5994, 5995.)

CHAPTER 22. ALDERMANIC FORM OF GOVERNMENT IN TYPE A
GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 22.001. CHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY
- Sec. 22.002. CONTINUATION OF OFFICES IN MUNICIPALITY CHANGING TO
TYPE A GENERAL-LAW MUNICIPALITY
- Sec. 22.003. DATE OF MUNICIPAL ELECTION
- Sec. 22.004. PLURALITY VOTE REQUIRED FOR ELECTION OF MUNICIPAL OFFI-
CER
- Sec. 22.005. OATH FOR ELECTED OR APPOINTED OFFICER
- Sec. 22.006. DATE ON WHICH OFFICERS BEGIN TO PERFORM DUTIES
- Sec. 22.007. VACANCY CREATED ON FAILURE TO QUALIFY
- Sec. 22.008. DISQUALIFICATION FROM OFFICE IF MUNICIPAL FUNDS OWED
- Sec. 22.009. REMOVAL FROM OFFICE FOR MISAPPROPRIATION OF SPECIAL
FUNDS
- Sec. 22.010. FILLING VACANCY ON GOVERNING BODY OR IN OTHER MUNICI-
PAL OFFICE
- Sec. 22.011. FILLING VACANCY IN MUNICIPAL OFFICE UNDER SPECIAL CIR-
CUMSTANCES
- Sec. 22.012. RESIGNATION OF ELECTED OR APPOINTED MUNICIPAL OFFICER

[Sections 22.013–22.030 reserved for expansion]

SUBCHAPTER B. GOVERNING BODY

- Sec. 22.031. COMPOSITION OF GOVERNING BODY; WARD SYSTEM OPTIONAL
- Sec. 22.032. QUALIFICATIONS OF MEMBERS OF GOVERNING BODY
- Sec. 22.033. GOVERNING BODY TO JUDGE ELECTION AND QUALIFICATION OF
MEMBERS
- Sec. 22.034. INITIAL ELECTION AND TERM OF OFFICE
- Sec. 22.035. REGULAR TERM OF OFFICE
- Sec. 22.036. INSTALLATION OF GOVERNING BODY
- Sec. 22.037. MAYOR AS PRESIDING OFFICER; PRESIDENT PRO TEMPORE
- Sec. 22.038. MEETINGS
- Sec. 22.039. QUORUM
- Sec. 22.040. CHANGE OF WARDS
- Sec. 22.041. VACANCY ON GOVERNING BODY IS CREATED
- Sec. 22.042. POWERS AND DUTIES OF MAYOR
- Sec. 22.043. PETITIONS AND REMONSTRANCES PRESENTED TO GOVERNING
BODY

[Sections 22.044–22.070 reserved for expansion]

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

- Sec. 22.071. OTHER MUNICIPAL OFFICERS
- Sec. 22.072. POWERS AND DUTIES OF MUNICIPAL OFFICERS; BOND
- Sec. 22.073. POWERS AND DUTIES OF SECRETARY
- Sec. 22.074. CERTIFICATION OF SECRETARIES
- Sec. 22.075. BOND AND DUTIES OF TREASURER
- Sec. 22.076. BOND OF MARSHAL; ABOLITION OF OFFICE
- Sec. 22.077. REMOVAL OF MUNICIPAL OFFICERS

CHAPTER 22. ALDERMANIC FORM OF GOVERNMENT IN TYPE A
GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 22.001. CHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALI-
TY. This chapter applies only to a Type A general-law municipality. (New.)

Sec. 22.002. CONTINUATION OF OFFICES IN MUNICIPALITY CHANGING TO TYPE A GENERAL-LAW MUNICIPALITY. If a municipality changes to a Type A general-law municipality under Subchapter B of Chapter 6, the officers serving in the municipality on the date of the change shall continue in office until their offices are superseded in conformity to the law applying to Type A general-law municipalities. (V.A.C.S. Art. 963 (part).)

Sec. 22.003. DATE OF MUNICIPAL ELECTION. An election for officers of the municipality shall be held annually, except as otherwise provided by law, in each ward of the municipality on an authorized uniform election date as provided by Chapter 41, Election Code. (V.A.C.S. Art. 978 (part).)

Sec. 22.004. PLURALITY VOTE REQUIRED FOR ELECTION OF MUNICIPAL OFFICER. To be elected to an office of the municipality, a person must receive more votes than any other person for the office. (V.A.C.S. Art. 980 (part).)

Sec. 22.005. OATH FOR ELECTED OR APPOINTED OFFICER. (a) A person who is elected or appointed to a municipal office under this code must take and sign the official oath of office before beginning to perform the duties of the office.

(b) The governing body of the municipality by ordinance may require a municipal officer to take any additional oath that the governing body considers best calculated to secure the faithful performance of the officer's duties. (V.A.C.S. Art. 993.)

Sec. 22.006. DATE ON WHICH OFFICERS BEGIN TO PERFORM DUTIES. A newly elected municipal officer may exercise the duties of office beginning on the fifth day after the date of the election, excluding Sundays. (V.A.C.S. Art. 983 (part).)

Sec. 22.007. VACANCY CREATED ON FAILURE TO QUALIFY. If a municipal officer-elect fails to qualify for office within 30 days after the date of the officer's election, the office is considered vacant. (V.A.C.S. Art. 983 (part).)

Sec. 22.008. DISQUALIFICATION FROM OFFICE IF MUNICIPAL FUNDS OWED. An officer who is entrusted with the collection or custody of funds belonging to the municipality and who is in default to the municipality may not hold any municipal office until the amount of the default, plus 10 percent interest, is paid to the municipality. (V.A.C.S. Art. 1004.)

Sec. 22.009. REMOVAL FROM OFFICE FOR MISAPPROPRIATION OF SPECIAL FUNDS. A municipal officer who misappropriates money in a special fund created by the municipality under Section 101.004 is guilty of malfeasance in office. On the complaint of a person who has an interest in the affected funds, the officer shall be removed from office and is ineligible to hold any office in that municipality after removal. (V.A.C.S. Art. 1015, Subdiv. 42 (part).)

Sec. 22.010. FILLING VACANCY ON GOVERNING BODY OR IN OTHER MUNICIPAL OFFICE. (a) If for any reason a single vacancy exists on the governing body of the municipality, a majority of the remaining members, excluding the mayor, may fill the vacancy by appointment unless an election to fill the vacancy is required by Article XI, Section 11, of the Texas Constitution. The mayor may vote on the appointment only if there is a tie.

(b) The person appointed to fill the vacancy serves until the next regular municipal election.

(c) In lieu of appointing a person to fill a vacancy on the governing body, a special election may be ordered to elect a person to fill the vacancy.

(d) If two or more vacancies on the governing body exist at the same time, a special election shall be ordered to fill the vacancies.

(e) If a vacancy exists in any other municipal office, the mayor or acting mayor shall appoint a person to fill the vacancy, subject to confirmation by the governing body. (V.A.C.S. Art. 989.)

Sec. 22.011. FILLING VACANCY IN MUNICIPAL OFFICE UNDER SPECIAL CIRCUMSTANCES. If a vacancy occurs in a municipal office by a resignation or in another manner and if the vacancy cannot be filled as provided by other law, the commissioners court of the county in which the municipality is located shall order an

election to fill the vacancy if the court is petitioned to do so by at least 26 taxpaying voters residing in the municipality. (V.A.C.S. Art. 990.)

Sec. 22.012. RESIGNATION OF ELECTED OR APPOINTED MUNICIPAL OFFICER. A municipal officer elected or appointed under this chapter may resign by submitting the resignation in writing to the governing body of the municipality. The resignation is subject to the approval and acceptance of the governing body. However, a person who is appointed by the mayor may submit the written resignation to the mayor for the mayor's action. (V.A.C.S. Art. 1005.)

[Sections 22.013–22.030 reserved for expansion]

SUBCHAPTER B. GOVERNING BODY

Sec. 22.031. COMPOSITION OF GOVERNING BODY; WARD SYSTEM OPTIONAL. (a) If the municipality is divided into wards, the governing body of the municipality consists of a mayor who is elected by the qualified voters of the municipality and of two aldermen from each ward who are elected by the qualified voters of the ward.

(b) If the municipality is not divided into wards, the governing body consists of a mayor and five aldermen who are elected by the qualified voters of the municipality, and the provisions of this subchapter relating to proceedings in a ward apply to the whole municipality. (V.A.C.S. Art. 977 (part).)

Sec. 22.032. QUALIFICATIONS OF MEMBERS OF GOVERNING BODY. (a) To be eligible for the office of mayor of the municipality, a person must be a registered voter and must have resided within the municipal limits for at least the 12 months preceding the election day. For purposes of this subsection, residency in an area while the area was not within the municipal limits is considered as residency within the limits if the area is a part of the municipality on election day.

(b) To be eligible for the office of alderman of the municipality, a person must be a registered voter and must reside on election day in the ward from which the person may be elected. (V.A.C.S. Art. 987, Secs. 1, 2 (part).)

Sec. 22.033. GOVERNING BODY TO JUDGE ELECTION AND QUALIFICATION OF MEMBERS. The governing body of the municipality is the judge of the election and qualifications of its members. (V.A.C.S. Art. 1008 (part).)

Sec. 22.034. INITIAL ELECTION AND TERM OF OFFICE. (a) If the municipality is divided into wards, at the initial election for officers of the municipality, the mayor and the two aldermen from each ward shall be elected. The aldermen for each ward are the candidates from that ward who receive the highest and second highest number of votes at the initial election.

(b) The two aldermen elected from each ward shall draw lots at the first regular meeting of the governing body of the municipality to determine which alderman serves for one year and which alderman serves for two years after the initial election. At each following annual election, one alderman shall be elected from each ward for the regular term.

(c) If the municipality is not divided into wards, the governing body by ordinance may determine the number and the manner of deciding which aldermen elected at the initial election for officers serve for one year and which serve for two years. (V.A.C.S. Arts. 979, 980 (part).)

Sec. 22.035. REGULAR TERM OF OFFICE. The mayor and aldermen of the municipality are elected for a term of two years unless a longer term is established under Article XI, Section 11, of the Texas Constitution. (V.A.C.S. Art. 977 (part).)

Sec. 22.036. INSTALLATION OF GOVERNING BODY. On the fifth day after the date of the election, excluding Sundays, or as soon as possible after that fifth day, the newly elected governing body of the municipality shall meet at the usual meeting place and shall be installed. (V.A.C.S. Art. 983 (part).)

Sec. 22.037. MAYOR AS PRESIDING OFFICER; PRESIDENT PRO TEMPORE. (a) The mayor shall preside at all meetings of the governing body of the municipality and, except in elections, may vote only if there is a tie.

(b) At each new governing body's first meeting or as soon as practicable, the governing body shall elect one alderman to serve as president pro tempore for a term of one year.

(c) If the mayor fails, is unable, or refuses to act, the president pro tempore shall perform the mayor's duties and is entitled to receive the fees and compensation prescribed for the mayor.

(d) If the mayor and the president pro tempore are absent, any alderman may be appointed to preside at the meeting. (V.A.C.S. Arts. 991, 1007.)

Sec. 22.038. MEETINGS. (a) The governing body of the municipality shall meet at the time and place determined by a resolution adopted by the governing body.

(b) The mayor may call a special meeting on the mayor's own motion or on the application of three aldermen. Each member of the governing body, the secretary, and the municipal attorney must be notified of the special meeting. The notice may be given personally or left at the person's usual place of residence.

(c) The governing body shall determine the rules of its proceedings and may compel the attendance of absent members and punish them for disorderly conduct.

(d) An alderman shall be fined \$3 for each meeting that the alderman fails to attend unless the absence is caused by the alderman's illness or the illness of a family member. (V.A.C.S. Arts. 1008 (part), 1009 (part).)

Sec. 22.039. QUORUM. A majority of the number of aldermen established by Section 22.031 for the municipality constitutes a quorum. However, at a called meeting or at a meeting to consider the imposition of taxes, two-thirds of the number of aldermen established by that section constitutes a quorum unless provided otherwise. (V.A.C.S. Art. 977 (part).)

Sec. 22.040. CHANGE OF WARDS. (a) The governing body of the municipality may divide the municipality into as many wards as it considers necessary for the good of the residents and may change ward boundaries. The wards must contain an equal number of voters as far as practicable.

(b) The governing body may not change the number of wards or boundaries of a ward during the three-month period preceding the date of a municipal election.

(c) The wards of a municipality that changes to a Type A general-law municipality under Subchapter B, Chapter 6, are not affected by that action. (V.A.C.S. Art. 992.)

Sec. 22.041. VACANCY ON GOVERNING BODY IS CREATED. (a) If an alderman moves from the ward from which the alderman is elected, the alderman's office is considered vacant.

(b) If a member of the governing body is absent for three regular consecutive meetings, the member's office is considered vacant unless the member is sick or has first obtained a leave of absence at a regular meeting. (V.A.C.S. Art. 987, Sec. 2 (part); Art. 1009 (part).)

Sec. 22.042. POWERS AND DUTIES OF MAYOR. (a) The mayor is the chief executive officer of the municipality. The mayor shall at all times actively ensure that the laws and ordinances of the municipality are properly carried out. The mayor shall perform the duties and exercise the powers prescribed by the governing body of the municipality.

(b) The mayor shall inspect the conduct of each subordinate municipal officer and shall cause any negligence, carelessness, or other violation of duty to be prosecuted and punished.

(c) The mayor shall give to the governing body any information, and shall recommend to the governing body any measure, that relates to improving the finances, police, health, security, cleanliness, comfort, ornament, or good government of the municipality.

(d) The mayor may administer oaths of office.

(e) In the event of a riot or unlawful assembly or to preserve the peace and good order in the municipality, the mayor may order and enforce the closing of a theater, ballroom, or other place of recreation or entertainment, or a public room or building and may order

the arrest of a person who violates a state law or a municipal ordinance in the presence of the mayor. (V.A.C.S. Arts. 994, 996.)

Sec. 22.043. PETITIONS AND REMONSTRANCES PRESENTED TO GOVERNING BODY. Petitions and remonstrances may be presented to the governing body of the municipality and must be in writing. (V.A.C.S. Art. 1008 (part).)

[Sections 22.044–22.070 reserved for expansion]

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 22.071. OTHER MUNICIPAL OFFICERS. (a) In addition to the members of the governing body of the municipality, the other officers of the municipality are the secretary, treasurer, assessor and collector, municipal attorney, marshal, municipal engineer, and any other officers or agents authorized by the governing body.

(b) The governing body by ordinance shall provide for the election or appointment of the officers provided by this section.

(c) The governing body may confer on other municipal officers the powers and duties of an officer provided for by this section. (V.A.C.S. Art. 977 (part).)

Sec. 22.072. POWERS AND DUTIES OF MUNICIPAL OFFICERS; BOND. (a) The governing body of the municipality may require a municipal officer whose duties are prescribed by this code to perform additional duties.

(b) The governing body may prescribe the powers and duties of a municipal officer appointed or elected to an office under this code whose duties are not specified by this code.

(c) The governing body may require a municipal officer to execute a bond payable to the municipality and conditioned that the officer will faithfully perform the duties of the office. (V.A.C.S. Art. 1002 (part).)

Sec. 22.073. POWERS AND DUTIES OF SECRETARY. (a) The secretary of the municipality shall attend each meeting of the governing body of the municipality and shall keep, in a record provided for that purpose, accurate minutes of the governing body's proceedings.

(b) The secretary shall:

- (1) engross and enroll all laws, resolutions, and ordinances of the governing body;
- (2) keep the corporate seal;
- (3) take charge of, preserve, and keep in order the books, papers, documents, files, and other records of the governing body;
- (4) countersign all commissions issued to municipal officers and all licenses issued by the mayor, and keep a record of those commissions and licenses; and
- (5) prepare all notices required under any regulation or ordinance of the municipality.

(c) The secretary shall notify the Texas Judicial Council of the name of each person who is elected or appointed as mayor, municipal court judge, or clerk of a municipal court of the municipality. The secretary shall notify the judicial council within 30 days after the date of the person's election or appointment.

(d) The secretary shall draw all the warrants on the treasurer, countersign the warrants, and keep, in a record provided for that purpose, an accurate account of the warrants.

(e) The secretary serves as the general accountant of the municipality and shall keep regular accounts of the municipal receipts and disbursements. The secretary shall keep each cause of receipt and disbursement separately and under proper headings. The secretary shall also keep separate accounts with each person, including each officer, who has monetary transactions with the municipality. The secretary shall credit accounts allowed by proper authority and shall specify the particular transaction to which each entry applies. The secretary shall keep records of the accounts and other information covered by this subsection.

(f) The secretary shall keep a register of bonds and bills issued by the municipality and all evidence of debt due and payable to the municipality, noting the relevant particulars and facts as they occur.

(g) The secretary shall carefully keep all contracts made by the governing body.

(h) The secretary shall perform all other duties required by law, ordinance, resolution, or order of the governing body. (V.A.C.S. Art. 1000.)

Sec. 22.074. CERTIFICATION OF SECRETARIES. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) A person may be certified to practice as a municipal secretary in this state. The person shall be granted a certificate on completion of a program of instruction for municipal secretaries conducted at an institution of higher education.

(c) A private association of secretaries of municipalities may contract with an institution of higher education to use the facilities of the institution to provide a program of instruction for municipal secretaries. The association shall develop the program with the assistance of the institution. The institution shall approve a program that meets qualifications for approval developed by the institution. The association shall conduct the program at the institution.

(d) A private association of secretaries that establishes a program of instruction under this section shall pay the costs of the program, including the payment of a reasonable fee to the institution that houses the program for the use of the institution's facilities. State funds may not be appropriated to finance a certification program established under this section.

(e) A private association of secretaries that establishes a program of instruction under this section shall issue a certificate to each person who successfully completes the program. A person who holds a certificate issued under this section must renew the certificate not later than five years after the date on which the original certificate was issued. The person may renew the certificate on completion of a supplementary program of instruction conducted at the institution of higher education.

(f) This section does not require a person to be certified as a municipal secretary in order to practice in that capacity. (V.A.C.S. Art. 1000a.)

Sec. 22.075. BOND AND DUTIES OF TREASURER. (a) The treasurer of the municipality shall execute a bond. The bond must:

- (1) be in favor of the municipality;
- (2) be in the form and amount required by the governing body of the municipality;
- (3) have security approved as sufficient by the governing body; and
- (4) be conditioned that the treasurer will faithfully discharge the duties of the office.

(b) The treasurer shall receive and securely keep all money belonging to the municipality. The treasurer shall make all payments on the order of the mayor, attested by the secretary of the municipality under the seal of the municipality. The treasurer may not pay an order unless the face of the order shows that the governing body directed the issuance of the order and shows the purpose for which it is issued.

(c) The treasurer shall render to the governing body a full statement of the receipts and payments. The statement must be rendered at the governing body's first regular meeting in every quarter and at other times as required by the governing body.

(d) The treasurer shall perform other acts and duties as the governing body requires. (V.A.C.S. Art. 1001.)

Sec. 22.076. BOND OF MARSHAL; ABOLITION OF OFFICE. (a) The marshal of the municipality shall execute a bond. The bond must be conditioned that the marshal will faithfully perform the official duties as the governing body of the municipality may require.

(b) The governing body of a municipality with a population of less than 5,000 by ordinance may abolish the office of marshal and, at the same time in the ordinance, confer the duties of the office on a municipal police officer appointed as the governing body

directs or on any other peace officer of the county. However, an elected marshal may not be removed from office under this subsection. (V.A.C.S. Arts. 999 (part), 999a.)

Sec. 22.077. REMOVAL OF MUNICIPAL OFFICERS. (a) The governing body of the municipality may remove a municipal officer for incompetency, corruption, misconduct, or malfeasance in office after providing the officer with due notice and an opportunity to be heard.

(b) If the governing body lacks confidence in a municipal officer elected by the governing body, the governing body may remove the officer at any time. The removal is effective only if two-thirds of the elected aldermen vote in favor of a resolution declaring the lack of confidence. (V.A.C.S. Art. 1006.)

CHAPTER 23. ALDERMANIC FORM OF GOVERNMENT IN TYPE B
GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 23.001. CHAPTER APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY
Sec. 23.002. FILLING VACANCY IN MUNICIPAL OFFICE

[Sections 23.003–23.020 reserved for expansion]

SUBCHAPTER B. GOVERNING BODY AND MARSHAL

- Sec. 23.021. INITIAL ELECTION OF GOVERNING BODY AND MARSHAL
Sec. 23.022. INITIAL MAYOR
Sec. 23.023. REGULAR ANNUAL ELECTION
Sec. 23.024. QUALIFICATIONS OF GOVERNING BODY AND MARSHAL; BOND
FOR MARSHAL
Sec. 23.025. INITIAL TERM OF OFFICE
Sec. 23.026. REGULAR TERM OF OFFICE
Sec. 23.027. PRESIDENT; PRESIDENT PRO TEMPORE
Sec. 23.028. QUORUM

[Sections 23.029–23.050 reserved for expansion]

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

- Sec. 23.051. OTHER MUNICIPAL OFFICERS
Sec. 23.052. DUTIES OF MUNICIPAL OFFICERS; BOND
Sec. 23.053. REMOVAL OF MUNICIPAL OFFICERS

CHAPTER 23. ALDERMANIC FORM OF GOVERNMENT IN TYPE B
GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 23.001. CHAPTER APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY. This chapter applies only to a Type B general-law municipality. (New.)

Sec. 23.002. FILLING VACANCY IN MUNICIPAL OFFICE. The aldermen on the governing body of the municipality shall fill any vacancy that occurs in an office created by this chapter or created under this chapter by the governing body unless an election to fill the vacancy is required by Article XI, Section 11, of the Texas Constitution. The vacant office shall be filled for the unexpired term only. (V.A.C.S. Art. 1146 (part).)

[Sections 23.003–23.020 reserved for expansion]

SUBCHAPTER B. GOVERNING BODY AND MARSHAL

Sec. 23.021. INITIAL ELECTION OF GOVERNING BODY AND MARSHAL. Immediately after the municipality has incorporated, the county judge of the county in which the municipality is located shall order an election for a mayor, five aldermen, and a marshal. (V.A.C.S. Art. 1141 (part).)

Sec. 23.022. INITIAL MAYOR. Immediately after election returns for the initial election for municipal officers have been made, the county judge shall commission the candidate who received the highest number of votes for the office of mayor. (V.A.C.S. Art. 1142 (part).)

Sec. 23.023. REGULAR ANNUAL ELECTION. (a) After the initial election, the election for the mayor, aldermen, and marshal shall be held annually, except as otherwise provided by law, on an authorized uniform election date as provided by Chapter 41, Election Code.

(b) The mayor, or any two aldermen if the mayor is unable or refuses to act, shall order the election.

(c) In addition to the notice required by Chapter 4, Election Code, the authority ordering the election shall post notice for at least the 20 days preceding election day in at least three public places within the municipal limits. (V.A.C.S. Art. 1144 (part).)

Sec. 23.024. QUALIFICATIONS OF GOVERNING BODY AND MARSHAL; BOND FOR MARSHAL. (a) To be eligible for the office of mayor, alderman, or marshal of the municipality, a person must be a qualified voter in the municipality and must have resided within the municipal limits for at least the six months preceding election day.

(b) The governing body shall prescribe the bond and security that the marshal must execute. The bond must be executed within five days after the date the marshal is elected or appointed, must be approved by the mayor before the marshal begins to perform the duties of the office, and must be payable to the municipality. If the marshal does not execute the bond within the required period, the governing body may appoint another person to the office. (V.A.C.S. Arts. 1141 (part), 1146 (part).)

Sec. 23.025. INITIAL TERM OF OFFICE. The mayor, aldermen, and marshal elected at the initial election under Section 23.021 hold office until their successors have been duly elected at the following annual municipal election and have qualified. (V.A.C.S. Art. 1143(a).)

Sec. 23.026. REGULAR TERM OF OFFICE. (a) The mayor, aldermen, and marshal of the municipality are elected for a term of one year unless a longer term is established under Subsection (b) or under Article XI, Section 11, of the Texas Constitution.

(b) In lieu of one-year terms of office, the governing body may provide by ordinance for two-year staggered terms of office for the mayor and aldermen. If the governing body adopts the ordinance, the mayor and two aldermen serve for a term of two years. The two aldermen who serve two-year terms are determined by drawing lots at the first meeting of the governing body following the annual municipal election held after the ordinance is adopted. The remaining aldermen hold office for an initial term of one year. Thereafter, all members of the governing body serve for a term of two years. (V.A.C.S. Art. 1143(b).)

Sec. 23.027. PRESIDENT; PRESIDENT PRO TEMPORE. (a) The mayor is the president of the governing body of the municipality.

(b) At the first meeting of each new governing body or as soon as practicable, the governing body shall elect one alderman to serve as president pro tempore for a term of one year. The president pro tempore performs the duties of the mayor if the mayor fails, is unable, or refuses to act.

(c) If the mayor and president pro tempore are absent from a meeting, the aldermen present at the meeting may appoint any alderman to act as the presiding officer if a quorum is present. (V.A.C.S. Art. 1145 (part).)

Sec. 23.028. QUORUM. (a) The mayor and three aldermen constitute a quorum.

(b) If the mayor is absent, four aldermen constitute a quorum. (V.A.C.S. Art. 1145 (part).)

[Sections 23.029–23.050 reserved for expansion]

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 23.051. OTHER MUNICIPAL OFFICERS. The governing body of the municipality may appoint officers, other than the mayor, aldermen, or marshal, as necessary to carry out the municipality's functions under this code. (V.A.C.S. Art. 1146 (part).)

Sec. 23.052. DUTIES OF MUNICIPAL OFFICERS; BOND. (a) The governing body of the municipality may prescribe the duties of the officers it appoints under this subchapter.

(b) The governing body shall prescribe the bonds and security that an appointed municipal officer must execute. The bond must be executed within five days after the date the officer is appointed, must be approved by the mayor before the officer begins to perform the duties of the office, and must be payable to the municipality. If the officer does not execute the bond within the required period, the governing body may appoint another person to the office. (V.A.C.S. Art. 1146 (part).)

Sec. 23.053. REMOVAL OF MUNICIPAL OFFICERS. The governing body of the municipality may dismiss at any time the officers that it appoints under this subchapter and may appoint others in their places. (V.A.C.S. Art. 1146 (part).)

CHAPTER 24. COMMISSION FORM OF GOVERNMENT IN
GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 24.001. CHAPTER APPLICABLE TO TYPE C GENERAL-LAW MUNICIPALITY

[Sections 24.002–24.020 reserved for expansion]

SUBCHAPTER B. GOVERNING BODY

Sec. 24.021. INITIAL ELECTION OF GOVERNING BODY OF COMMUNITY INCORPORATING AS TYPE C GENERAL-LAW MUNICIPALITY; INITIAL TERM

Sec. 24.022. INITIAL ELECTION OF GOVERNING BODY OF MUNICIPALITY CHANGING TO TYPE C GENERAL-LAW MUNICIPALITY; INITIAL TERM

Sec. 24.023. REGULAR TERM OF OFFICE; REGULAR ELECTION DATE

Sec. 24.024. BOND OF MAYOR AND COMMISSIONERS

Sec. 24.025. MEETINGS

Sec. 24.026. FILLING VACANCY ON GOVERNING BODY

[Sections 24.027–24.050 reserved for expansion]

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 24.051. OTHER MUNICIPAL OFFICERS; DUTIES

Sec. 24.052. CLERK AND TAX ASSESSOR-COLLECTOR: BOND; POWERS AND DUTIES

Sec. 24.053. ABOLITION OF MUNICIPAL OFFICE; DISCHARGE OF OFFICER OR EMPLOYEE

[Sections 24.054–24.070 reserved for expansion]

SUBCHAPTER D. CHANGE FROM COMMISSION FORM OF
GOVERNMENT TO ANOTHER FORM

Sec. 24.071. CHANGE FROM COMMISSION FORM OF GOVERNMENT TO ANOTHER FORM

CHAPTER 24. COMMISSION FORM OF GOVERNMENT IN
GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 24.001. CHAPTER APPLICABLE TO TYPE C GENERAL-LAW MUNICIPALITY. This chapter applies only to a Type C general-law municipality. (New.)

[Sections 24.002–24.020 reserved for expansion]

SUBCHAPTER B. GOVERNING BODY

Sec. 24.021. INITIAL ELECTION OF GOVERNING BODY OF COMMUNITY INCORPORATING AS TYPE C GENERAL-LAW MUNICIPALITY; INITIAL TERM. (a) At the election at which a community votes to incorporate as a Type C general-law municipality, a mayor and two commissioners must be elected.

(b) The officers elected under this section serve until the date of the first regular election for municipal officers. (V.A.C.S. Art. 1158 (part).)

Sec. 24.022. INITIAL ELECTION OF GOVERNING BODY OF MUNICIPALITY CHANGING TO TYPE C GENERAL-LAW MUNICIPALITY; INITIAL TERM. (a) The mayor of a municipality that votes to change to a Type C general-law municipality continues to hold office for the term for which the mayor was elected.

(b) At the election at which a municipality votes to change to a Type C general-law municipality, two commissioners shall be elected. The commissioners serve until the date of the first regular election for municipal officers.

(c) After the initial commissioners elected under Subsection (b) have qualified for office, the offices of the former governing body of the municipality are abolished and the mayor and the commissioners constitute the governing body of the municipality. (V.A.C.S. Arts. 1158 (part), 1160 (part).)

Sec. 24.023. REGULAR TERM OF OFFICE; REGULAR ELECTION DATE. (a) The mayor and commissioners of the municipality serve for a term of two years unless a longer term is established under Article XI, Section 11, of the Texas Constitution.

(b) The election for mayor and commissioners shall be held on an authorized uniform election date as provided by Chapter 41, Election Code.

(c) The first regular election must be on an authorized uniform election date occurring:

(1) in the case of a community incorporating as a Type C general-law municipality, within one year after the expiration of the month in which the incorporation election is held; or

(2) in the case of a municipality changing to a Type C general-law municipality, within one year after the month in which the election on the change is held. (V.A.C.S. Art. 1158 (part).)

Sec. 24.024. BOND OF MAYOR AND COMMISSIONERS. (a) The mayor and each commissioner of the municipality must execute a bond. The bond must be:

(1) in the amount of \$3,000;

(2) conditioned that the mayor or commissioner will faithfully perform the duties of the office;

(3) payable to the municipality for its use and benefit; and

(4) approved by the governing body.

(b) The bonds of the initial commissioners must be approved by the governing body within 20 days after the date the county judge or the mayor enters the order under Section 8.006 or 8.026. (V.A.C.S. Art. 1162.)

Sec. 24.025. MEETINGS. (a) The governing body of the municipality shall hold at least one regular monthly meeting.

(b) The mayor or two commissioners may call special meetings as necessary to attend to municipal business. (V.A.C.S. Art. 1164 (part).)

Sec. 24.026. FILLING VACANCY ON GOVERNING BODY. (a) If the mayor or commissioner of a municipality dies or resigns, the other members of the governing body of the municipality shall appoint a person to fill the vacancy.

(b) If, because of death, resignation, failure to qualify, or other reason, vacancies exist in the offices of mayor and commissioner at the same time or in the offices of two commissioners at the same time, the county judge shall order a special election to fill the

vacancies. The election is governed by the provisions applicable to an election under Subchapter A, Chapter 8, if the municipality incorporated as a Type C general-law municipality, or is governed by the same provisions applicable to an election under Subchapter B, Chapter 8, if the municipality changed to a Type C general-law municipality.

(c) The county judge shall certify the results of the election to the clerk of the governing body and the clerk shall enter the results in the minutes. (V.A.C.S. Art. 1159.)

[Sections 24.027–24.050 reserved for expansion]

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 24.051. OTHER MUNICIPAL OFFICERS; DUTIES. (a) The governing body of the municipality may appoint a municipal attorney and other officers that the governing body considers necessary.

(b) The governing body may define the duties of the officers. (V.A.C.S. Art. 1161 (part).)

Sec. 24.052. CLERK AND TAX ASSESSOR-COLLECTOR; BOND; POWERS AND DUTIES. (a) The governing body of the municipality shall appoint a competent person as clerk of the municipality. The clerk is also the tax assessor-collector of the municipality.

(b) Before beginning to perform the duties of the office, the clerk must execute a good and sufficient bond with a surety company authorized to do business in this state. The bond must be:

- (1) in an amount determined by the governing body to be sufficient to protect the funds of the municipality, but not less than twice the largest amount collected at any one time in the preceding fiscal or calendar year;
- (2) approved by the governing body; and
- (3) filed and recorded in the minutes of the governing body.

(c) The clerk has the same powers and duties that are imposed by the general laws on the clerk, treasurer, and tax assessor-collector of a Type A or Type B general-law municipality. (V.A.C.S. Art. 1161 (part).)

Sec. 24.053. ABOLITION OF MUNICIPAL OFFICE; DISCHARGE OF OFFICER OR EMPLOYEE. At any time, the governing body of the municipality may abolish an office that it creates and may discharge an officer, clerk, or employee that it appoints. (V.A.C.S. Art. 1161 (part).)

[Sections 24.054–24.070 reserved for expansion]

SUBCHAPTER D. CHANGE FROM COMMISSION FORM OF GOVERNMENT TO ANOTHER FORM

Sec. 24.071. CHANGE FROM COMMISSION FORM OF GOVERNMENT TO ANOTHER FORM. (a) A Type C general-law municipality operating under the commission form of government may adopt the aldermanic form of government provided by Chapter 22 or may adopt any other lawful form of government by majority vote at an election ordered and held for that purpose.

(b) An election to consider changing from the commission form of government to another form of government must be ordered and held as provided by the provisions of Subchapter B, Chapter 8, relating to an election to change to a Type C general-law municipality.

(c) If a Type C general-law municipality adopts the aldermanic form of government, the mayor and two commissioners holding office immediately before the election continue to hold office as mayor and aldermen for the remainder of their terms. (V.A.C.S. Art. 1154, Secs. 1 (part), 1a.)

CHAPTER 25. CITY MANAGER FORM OF GOVERNMENT IN
GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 25.001. CHAPTER APPLICABLE TO GENERAL-LAW MUNICIPALITY WITH
POPULATION OF LESS THAN 5,000

[Sections 25.002–25.020 reserved for expansion]

SUBCHAPTER B. CITY MANAGER

Sec. 25.021. ADOPTION OF CITY MANAGER FORM OF GOVERNMENT
Sec. 25.022. PETITION
Sec. 25.023. PROCLAMATION ORDERING ELECTION
Sec. 25.024. NOTICE OF ELECTION
Sec. 25.025. ELECTION; ADOPTION
Sec. 25.026. APPOINTMENT OF CITY MANAGER
Sec. 25.027. QUALIFICATIONS OF CITY MANAGER
Sec. 25.028. TERM OF OFFICE
Sec. 25.029. POWERS AND DUTIES OF CITY MANAGER; BOND

[Sections 25.030–25.050 reserved for expansion]

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 25.051. OTHER MUNICIPAL OFFICERS

[Sections 25.052–25.070 reserved for expansion]

SUBCHAPTER D. ABANDONING CITY MANAGER FORM OF GOVERNMENT

Sec. 25.071. ABANDONING CITY MANAGER FORM OF GOVERNMENT
Sec. 25.072. DUTIES OF GOVERNING BODY IF CITY MANAGER FORM IS ABAN-
DONED

CHAPTER 25. CITY MANAGER FORM OF GOVERNMENT IN
GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 25.001. CHAPTER APPLICABLE TO GENERAL-LAW MUNICIPALITY WITH
POPULATION OF LESS THAN 5,000. This chapter applies only to a general-law
municipality with a population of less than 5,000. (V.A.C.S. Arts. 1164a-1 (part),
1164a-2.)

[Sections 25.002–25.020 reserved for expansion]

SUBCHAPTER B. CITY MANAGER

Sec. 25.021. ADOPTION OF CITY MANAGER FORM OF GOVERNMENT. The
municipality, by first holding an election on the question, may adopt the city manager
form of government. (V.A.C.S. Art. 1164a-1 (part).)

Sec. 25.022. PETITION. (a) The residents of the municipality may file a petition with
the clerk of the municipality requesting the mayor to call a special election to determine
whether the municipality shall adopt the city manager form of government.

(b) The petition must be signed by a number of qualified voters equal to at least 20
percent of the total number of qualified voters who voted for mayor at the most recent
municipal election at which the office of mayor was to be filled. (V.A.C.S. Art. 1164a-3
(part).)

Sec. 25.023. PROCLAMATION ORDERING ELECTION. (a) Within 10 days after the
date a petition is filed, the mayor of the municipality shall issue a proclamation ordering a
special election.

b) The proclamation must state that the election is ordered to determine whether the municipality will adopt the city manager form of government and must be signed by the mayor and attested by the clerk of the municipality. (V.A.C.S. Art. 1164a-3 (part).)

Sec. 25.024. NOTICE OF ELECTION. A copy of the proclamation must be posted in at least five conspicuous places in the municipality for at least the 10 days preceding election day. (V.A.C.S. Art. 1164a-3 (part).)

Sec. 25.025. ELECTION; ADOPTION. (a) After a petition is filed, an election to consider the adoption of the city manager form of government must be held on the first authorized uniform election date prescribed by the Election Code that occurs after the date the petition is filed under Section 25.022 and that affords enough time to hold the election in the manner required by law. Each qualified voter in the municipality is entitled to vote in the election.

b) The ballots at an election under this subchapter shall be printed to provide for voting for or against the proposition: The governing body of the municipality of _____ (name of the municipality) appointing a city manager and setting by ordinance the salary of the manager.

c) A municipality holding an election under this subchapter shall operate under the city manager form of government if a majority of the votes cast at the election are for its option. (V.A.C.S. Art. 1164a-3 (part).)

Sec. 25.026. APPOINTMENT OF CITY MANAGER. If the city manager form of government is adopted, the governing body of the municipality shall appoint a city manager within 60 days after the election day and by ordinance shall set the manager's salary. (V.A.C.S. Art. 1164a-4.)

Sec. 25.027. QUALIFICATIONS OF CITY MANAGER. (a) The governing body of the municipality shall appoint the city manager solely on the basis of the person's administrative ability.

b) The city manager is not required to meet any residency qualifications. (V.A.C.S. Art. 1164a-6 (part).)

Sec. 25.028. TERM OF OFFICE. The city manager is appointed by and serves at the will of the governing body of the municipality. (V.A.C.S. Art. 1164a-5 (part).)

Sec. 25.029. POWERS AND DUTIES OF CITY MANAGER; BOND. (a) The city manager shall administer the municipal business and the governing body of the municipality shall ensure that the administration is efficient.

b) The governing body by ordinance may delegate to the city manager any additional powers or duties the governing body considers proper for the efficient administration of municipal affairs.

c) The city manager must execute a bond. The bond must be conditioned that the manager will faithfully perform the duties of manager and must be in an amount prescribed by ordinance. (V.A.C.S. Arts. 1164a-5 (part), 1164a-6 (part).)

[Sections 25.030–25.050 reserved for expansion]

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 25.051. OTHER MUNICIPAL OFFICERS. After a municipality adopts the city manager form of government under this chapter, all municipal officers, except members of the governing body of the municipality, shall be appointed as provided by ordinance. However, an elected officer serving at the time of the adoption of the city manager form of government may continue to serve until the expiration of the officer's term. (V.A.C.S. Art. 1164a-7.)

[Sections 25.052–25.070 reserved for expansion]

SUBCHAPTER D. ABANDONING CITY MANAGER FORM OF GOVERNMENT

Sec. 25.071. ABANDONING CITY MANAGER FORM OF GOVERNMENT. (a) A municipality may abandon the city manager form of government at any time as provided in this section.

(b) A petition requesting the mayor of the municipality to order a special election to abandon the city manager form of government must be filed with the clerk of the municipality and signed by a number of qualified voters equal to at least 20 percent of the total number of qualified voters who voted for mayor at the most recent municipal election at which the office of mayor was to be filled.

(c) Within 10 days after the date a petition is filed under Subsection (b), the mayor shall issue a proclamation ordering the special election. The proclamation must state that the election is ordered to determine whether the municipality will abandon the city manager form of government and notice of the election must be as for an election to consider the adoption of the city manager form of government.

(d) The election must be held on the first authorized uniform election date prescribed by the Election Code that occurs after the date the petition is filed under Subsection (b) and that affords enough time to hold the election in the manner required by law.

(e) The ballots at the election shall be printed to provide for voting for or against the proposition: Abandoning the city manager form of government in the municipality of _____ (name of the municipality). (V.A.C.S. Art. 1164a-8.)

Sec. 25.072. DUTIES OF GOVERNING BODY IF CITY MANAGER FORM IS ABANDONED. (a) If a majority of votes cast at an election under this subchapter are for abandoning the city manager form of government, the governing body of the municipality shall discharge the city manager within 60 days after the election day.

(b) When the city manager is discharged, the governing body shall assume the powers and duties given to the governing body by law as if the city manager form of government had never been adopted. (V.A.C.S. Art. 1164a-9.)

CHAPTER 26. FORM OF GOVERNMENT IN HOME-RULE MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 26.001. CHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY

[Sections 26.002-26.020 reserved for expansion]

SUBCHAPTER B. FORM OF GOVERNMENT

Sec. 26.021. FORM OF GOVERNMENT

[Sections 26.022-26.040 reserved for expansion]

SUBCHAPTER C. MUNICIPAL OFFICERS

Sec. 26.041. CREATION OF MUNICIPAL OFFICES

Sec. 26.042. DATE FOR ELECTION OF OFFICERS

Sec. 26.043. FILLING VACANCY IN ELECTIVE OFFICE IN MUNICIPALITY WITH POPULATION OF 384,000 OR MORE

CHAPTER 26. FORM OF GOVERNMENT IN HOME-RULE MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 26.001. CHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY. This chapter applies only to a home-rule municipality. (New.)

[Sections 26.002-26.020 reserved for expansion]

SUBCHAPTER B. FORM OF GOVERNMENT

Sec. 26.021. FORM OF GOVERNMENT. The municipality may adopt and operate under any form of government, including the aldermanic or commission form. (V.A.C.S. Art. 1175, Subdiv. 1 (part).)

[Sections 26.022-26.040 reserved for expansion]

SUBCHAPTER C. MUNICIPAL OFFICERS

Sec. 26.041. CREATION OF MUNICIPAL OFFICES. The municipality may:

- (1) create offices;
- (2) determine the method for selecting officers; and

(3) prescribe the qualifications, duties, and tenure of office for officers. (V.A.C.S. Art. 1175, Subdiv. 1 (part).)

Sec. 26.042. DATE FOR ELECTION OF OFFICERS. The governing body of the municipality may set the date of election for municipal officers in accordance with applicable provisions of the Election Code. (V.A.C.S. Art. 978a.)

Sec. 26.043. FILLING VACANCY IN ELECTIVE OFFICE IN MUNICIPALITY WITH POPULATION OF 384,000 OR MORE. (a) If a vacancy occurs in an elective office of a municipality with a population of 384,000 or more and if the charter of the municipality does not provide for the filling of the vacancy, the governing body of the municipality, by majority vote, shall appoint an individual to fill the vacated office for the unexpired term. Pending that appointment, the governing body may appoint a person on a temporary basis to serve for a period not to exceed 60 days.

(b) A person appointed under Subsection (a) must possess the qualifications required of the elected official.

(c) If the municipality holds an election to vote on proposed amendments to its charter, it shall at that time submit a proposed charter amendment to provide a method for filling vacancies in elective offices. (V.A.C.S. Art. 1175c.)

[Chapters 27–40 reserved for expansion]

SUBTITLE C. MUNICIPAL BOUNDARIES AND ANNEXATION

CHAPTER 41. MUNICIPAL BOUNDARIES

Sec. 41.001. MAP OF MUNICIPAL BOUNDARIES

Sec. 41.002. BOUNDARY SURVEY IN GENERAL-LAW MUNICIPALITIES

Sec. 41.003. INCLUSION OF AREA RECEIVING LONGSTANDING TREATMENT AS PART OF MUNICIPALITY

Sec. 41.004. BOUNDARIES NOT AFFECTED BY CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY

SUBTITLE C. MUNICIPAL BOUNDARIES AND ANNEXATION

CHAPTER 41. MUNICIPAL BOUNDARIES

Sec. 41.001. MAP OF MUNICIPAL BOUNDARIES. (a) Each municipality shall prepare a map that shows the boundaries of the municipality. A copy of the map shall be kept in the office of the secretary or clerk of the municipality. If the municipality has a municipal engineer, a copy of the map shall also be kept in the office of the engineer.

(b) If the municipality annexes territory, the map shall be immediately corrected to include the annexed territory. The map shall be annotated to indicate:

(1) the date of annexation;

(2) the number of the annexation ordinance, if any; and

(3) a reference to the minutes or municipal ordinance records in which the ordinance is recorded in full. (V.A.C.S. Art. 971a.)

Sec. 41.002. BOUNDARY SURVEY IN GENERAL-LAW MUNICIPALITIES. (a) Immediately after the members of the governing body of a newly incorporated general-law municipality qualify for office, the governing body shall adopt an ordinance requiring a survey of the boundaries of the municipality to be made.

(b) The survey must be based on the boundaries designated in the petition for incorporation. The field notes of the survey must be recorded in the minutes of the municipality and in the deed records of the county in which the municipality is located. (V.A.C.S. Art. 971 (part).)

Sec. 41.003. INCLUSION OF AREA RECEIVING LONGSTANDING TREATMENT AS PART OF MUNICIPALITY. (a) The governing body of a municipality may adopt an ordinance to declare an area that is adjacent to the municipality and that meets the requirements of Subsection (b) to be a part of the municipality. The adoption of the ordinance creates an irrebuttable presumption that the area is a part of the municipality for all purposes. The presumption may not be contested for any cause after the effective date of the ordinance.

(b) An area qualifies for inclusion in a municipality under this section only if, on the date of the adoption of the ordinance:

- (1) the records of the municipality indicate that the area has been a part of the municipality for at least the preceding 20 years;
- (2) the municipality has provided municipal services, including police protection, to the area and has otherwise treated the area as a part of the municipality during the preceding 20 years;
- (3) there has not been a final judicial determination during the preceding 20 years that the area is outside the boundaries of the municipality; and
- (4) there is no pending lawsuit that challenges the inclusion of the area as part of the municipality.

(c) The date on which an area that is made a part of a municipality under this section is considered to be a part of the municipality is retroactive to the date on which the municipality began its continuous treatment of the area as part of the municipality. That date shall be used for all relevant purposes, including a determination of whether territory allegedly annexed by the municipality was adjacent to the municipality at the time of the purported annexation. (V.A.C.S. Art. 970b.)

Sec. 41.004. BOUNDARIES NOT AFFECTED BY CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. If a municipality changes to a Type A general-law municipality under Subchapter B of Chapter 6, the boundaries of the municipality remain the same as they existed under the law governing the municipality before the change. After the change, the boundaries are subject to the law governing Type A general-law municipalities. (V.A.C.S. Art. 965 (part).)

CHAPTER 42. EXTRATERRITORIAL JURISDICTION OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. PURPOSE OF EXTRATERRITORIAL JURISDICTION

[Sections 42.002–42.020 reserved for expansion]

SUBCHAPTER B. DETERMINATION OF EXTRATERRITORIAL JURISDICTION

Sec. 42.021. EXTENT OF EXTRATERRITORIAL JURISDICTION

Sec. 42.022. EXPANSION OF EXTRATERRITORIAL JURISDICTION

Sec. 42.023. REDUCTION OF EXTRATERRITORIAL JURISDICTION

[Sections 42.024–42.040 reserved for expansion]

SUBCHAPTER C. CREATION OF GOVERNMENTAL ENTITIES IN EXTRATERRITORIAL JURISDICTION

Sec. 42.041. MUNICIPAL INCORPORATION IN EXTRATERRITORIAL JURISDICTION

Sec. 42.042. CREATION OF POLITICAL SUBDIVISION TO SUPPLY WATER OR SEWER SERVICES IN EXTRATERRITORIAL JURISDICTION

Sec. 42.043. REQUIREMENTS APPLYING TO PETITION

Sec. 42.044. CREATION OF INDUSTRIAL DISTRICT IN EXTRATERRITORIAL JURISDICTION

Sec. 42.045. CREATION OF POLITICAL SUBDIVISION IN INDUSTRIAL DISTRICT

[Sections 42.046–42.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 42.901. APPORTIONMENT OF EXTRATERRITORIAL JURISDICTIONS THAT OVERLAPPED ON AUGUST 23, 1963

Sec. 42.902. RESTRICTION AGAINST IMPOSING TAX IN EXTRATERRITORIAL JURISDICTION

CHAPTER 42. EXTRATERRITORIAL JURISDICTION OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. PURPOSE OF EXTRATERRITORIAL JURISDICTION. The legislature declares it the policy of the state to designate certain areas as the extraterritorial

jurisdiction of municipalities to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities. (V.A.C.S. Art. 970a, Sec. 3, Subsec. A (part).)

[Sections 42.002–42.020 reserved for expansion]

SUBCHAPTER B. DETERMINATION OF EXTRATERRITORIAL JURISDICTION

Sec. 42.021. **EXTENT OF EXTRATERRITORIAL JURISDICTION.** The extraterritorial jurisdiction of a municipality is the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located:

- (1) within one-half mile of those boundaries, in the case of a municipality with fewer than 5,000 inhabitants;
- (2) within one mile of those boundaries, in the case of a municipality with 5,000 to 24,999 inhabitants;
- (3) within two miles of those boundaries, in the case of a municipality with 25,000 to 49,999 inhabitants;
- (4) within 3-½ miles of those boundaries, in the case of a municipality with 50,000 to 99,999 inhabitants; or
- (5) within five miles of those boundaries, in the case of a municipality with 100,000 or more inhabitants. (V.A.C.S. Art. 970a, Sec. 3, Subsec. A (part).)

Sec. 42.022. **EXPANSION OF EXTRATERRITORIAL JURISDICTION.** (a) When a municipality annexes an area, the extraterritorial jurisdiction of the municipality expands with the annexation to comprise, consistent with Section 42.021, the area around the new municipal boundaries.

(b) The extraterritorial jurisdiction of a municipality may expand beyond the distance limitations imposed by Section 42.021 to include an area contiguous to the otherwise existing extraterritorial jurisdiction of the municipality if the owners of the area request the expansion.

(c) The expansion of the extraterritorial jurisdiction of a municipality through annexation, request, or increase in the number of inhabitants may not include any area in the existing extraterritorial jurisdiction of another municipality. (V.A.C.S. Art. 970a, Sec. 3, Subsec. C (part).)

Sec. 42.023. **REDUCTION OF EXTRATERRITORIAL JURISDICTION.** The extraterritorial jurisdiction of a municipality may not be reduced unless the governing body of the municipality gives its written consent by ordinance or resolution, except in cases of judicial apportionment of overlapping extraterritorial jurisdictions under Section 42.901. (V.A.C.S. Art. 970a, Sec. 3, Subsec. C (part).)

[Sections 42.024–42.040 reserved for expansion]

SUBCHAPTER C. CREATION OF GOVERNMENTAL ENTITIES IN EXTRATERRITORIAL JURISDICTION

Sec. 42.041. **MUNICIPAL INCORPORATION IN EXTRATERRITORIAL JURISDICTION.** (a) A municipality may not be incorporated in the extraterritorial jurisdiction of an existing municipality unless the governing body of the existing municipality gives its written consent by ordinance or resolution.

(b) If the governing body of the existing municipality refuses to give its consent, a majority of the qualified voters of the area of the proposed municipality and the owners of at least 50 percent of the land in the proposed municipality may petition the governing body to annex the area. If the governing body fails or refuses to annex the area within six months after the date it receives the petition, that failure or refusal constitutes the governing body's consent to the incorporation of the proposed municipality.

(c) The consent to the incorporation of the proposed municipality is only an authorization to initiate incorporation proceedings as provided by law.

(d) If the consent to initiate incorporation proceedings is obtained, the incorporation must be initiated within six months after the date of the consent and must be finally completed within 18 months after the date of the consent. Failure to comply with either time requirement terminates the consent.

(e) This section applies only to the proposed municipality's area located in the extraterritorial jurisdiction of the existing municipality. (V.A.C.S. Art. 970a, Sec. 8, Subsecs. A, C (part).)

Sec. 42.042. CREATION OF POLITICAL SUBDIVISION TO SUPPLY WATER OR SEWER SERVICES IN EXTRATERRITORIAL JURISDICTION. (a) A political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, may not be created in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution.

(b) If the governing body fails or refuses to give its consent within 60 days after the date it receives a written request for the consent, a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision may petition the governing body to make available to the area the water or sanitary sewer services that would be provided by the political subdivision.

(c) If, within six months after the date the governing body receives the petition, the governing body fails to make a contract with a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision to provide the services, that failure constitutes the governing body's consent to the creation of the proposed political subdivision.

(d) The consent to the creation of the political subdivision is only an authorization to initiate proceedings to create the political subdivision as provided by law.

(e) If the consent to initiate proceedings to create the political subdivision is obtained, the proceedings must be initiated within six months after the date of the consent and must be finally completed within 18 months after the date of the consent. Failure to comply with either time requirement terminates the consent.

(f) This section applies only to the proposed political subdivision's area located in the extraterritorial jurisdiction of the municipality. (V.A.C.S. Art. 970a, Sec. 8, Subsecs. B (part), C (part).)

Sec. 42.043. REQUIREMENTS APPLYING TO PETITION. (a) A petition under Section 42.041 or 42.042 must:

- (1) be written;
 - (2) request that the area be annexed or that the services be made available, as appropriate;
 - (3) be signed in ink or indelible pencil by the appropriate voters and landowners;
 - (4) be signed, in the case of a person signing as a voter, as the person's name appears on the most recent official list of registered voters;
 - (5) contain, in the case of a person signing as a voter, a note made by the person stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;
 - (6) contain, in the case of a person signing as a landowner, a note made by the person opposite the person's name stating the approximate total acreage that the person owns in the area to be annexed or serviced;
 - (7) describe the area to be annexed or serviced and have a plat of the area attached; and
 - (8) be presented to the secretary or clerk of the municipality.
- (b) The signatures to the petition need not be appended to one paper.
- (c) Before the petition is circulated among the voters and landowners, notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the area to be annexed or serviced and by publishing the notice once, in a newspaper of

general circulation serving the area, before the 15th day before the date the petition is first circulated. Proof of posting and publication must be made by attaching to the petition presented to the secretary or clerk:

- (1) the affidavit of any voter who signed the petition, stating the places and dates of the posting;
- (2) the affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication; and
- (3) the affidavit of at least three voters who signed the petition, if there are that many, stating the total number of voters residing in the area and the approximate total acreage in the area. (V.A.C.S. Art. 970a, Sec. 9.)

Sec. 42.044. CREATION OF INDUSTRIAL DISTRICT IN EXTRATERRITORIAL JURISDICTION. (a) In this section, "industrial district" has the meaning customarily given to the term but also includes any area in which tourist-related businesses and facilities are located.

(b) The governing body of a municipality may designate any part of its extraterritorial jurisdiction as an industrial district and may treat the designated area in a manner considered by the governing body to be in the best interests of the municipality.

(c) The governing body may make written contracts with owners of land in the industrial district:

(1) to guarantee the continuation of the extraterritorial status of the district and its immunity from annexation by the municipality for a period not to exceed seven years; and

(2) with other terms and considerations that the parties consider appropriate.

(d) The parties to a contract may renew or extend it for successive periods not to exceed seven years each.

(e) A municipality may provide for adequate fire-fighting services in the industrial district by:

(1) directly furnishing fire-fighting services that are to be paid for by the property owners of the district;

(2) contracting for fire-fighting services, whether or not all or a part of the services are to be paid for by the property owners of the district; or

(3) contracting with the property owners of the district to have them provide for their own fire-fighting services.

(f) A property owner who provides for his own fire-fighting services under this section may not be required to pay any part of the cost of fire-fighting services provided by the municipality to other property owners in the district. (V.A.C.S. Art. 970a, Secs. 5 (part), 5A.)

Sec. 42.045. CREATION OF POLITICAL SUBDIVISION IN INDUSTRIAL DISTRICT. (a) A political subdivision, one purpose of which is to provide services of a governmental or proprietary nature, may not be created in an industrial district designated under Section 42.044 by a municipality unless the municipality gives its written consent by ordinance or resolution. The municipality shall give or deny consent within 60 days after the date the municipality receives a written request for consent. Failure to give or deny consent in the allotted period constitutes the municipality's consent to the initiation of the creation proceedings.

(b) If the consent is obtained, the creation proceedings must be initiated within six months after the date of the consent and must be finally completed within 18 months after the date of the consent. Failure to comply with either time requirement terminates the consent for the proceedings. (V.A.C.S. Art. 970a, Sec. 5B.)

[Sections 42.046–42.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 42.901. APPORTIONMENT OF EXTRATERRITORIAL JURISDICTIONS THAT OVERLAPPED ON AUGUST 23, 1963. (a) If, on August 23, 1963, the extraterritorial jurisdiction of a municipality overlapped the extraterritorial jurisdiction of one or more other municipalities, the governing bodies of the affected municipalities may apportion the overlapped area by a written agreement approved by an ordinance or a resolution adopted by the governing bodies.

(b) A municipality having a claim of extraterritorial jurisdiction to the overlapping area may bring an action as plaintiff in the district court of the judicial district in which the largest municipality having a claim to the area is located. The plaintiff municipality must name as a defendant each municipality having a claim of extraterritorial jurisdiction to the area and must request the court to apportion the area among the affected municipalities. In apportioning the area, the court shall consider population densities, patterns of growth, transportation, topography, and land use in the municipalities and the overlapping area. The area must be apportioned among the municipalities:

(1) so that each municipality's part is contiguous to the extraterritorial jurisdiction of the municipality or, if the extraterritorial jurisdiction of the municipality is totally overlapped, is contiguous to the boundaries of the municipality;

(2) so that each municipality's part is in a substantially compact shape; and

(3) in the same ratio, to one decimal, that the respective populations of the municipalities bear to each other, but with each municipality receiving at least one-tenth of the area.

(c) An apportionment under this section must consider existing property lines. A tract of land or adjoining tracts of land that were under one ownership on August 23, 1963, and that do not exceed 160 acres may not be apportioned so as to be in the extraterritorial jurisdiction of more than one municipality unless the landowner gives written consent to that apportionment. (V.A.C.S. Art. 970a, Sec. 3, Subsec. B.)

Sec. 42.902. RESTRICTION AGAINST IMPOSING TAX IN EXTRATERRITORIAL JURISDICTION. The inclusion of an area in the extraterritorial jurisdiction of a municipality does not by itself authorize the municipality to impose a tax in the area. (V.A.C.S. Art. 970a, Sec. 3, Subsec. D.)

CHAPTER 43. MUNICIPAL ANNEXATION

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 43.001. DEFINITION
- Sec. 43.002. CHARTER PROVISIONS REGARDING LIMITED-PURPOSE ANNEXATION NOT AFFECTED

[Sections 43.003–43.020 reserved for expansion]

SUBCHAPTER B. GENERAL AUTHORITY TO ANNEX

- Sec. 43.021. AUTHORITY OF HOME-RULE MUNICIPALITY TO ANNEX AREA AND TAKE OTHER ACTIONS REGARDING BOUNDARIES
- Sec. 43.022. VOTER APPROVAL OF ANNEXATION BY HOME-RULE MUNICIPALITY REQUIRED UNDER CERTAIN CIRCUMSTANCES
- Sec. 43.023. AUTHORITY OF GENERAL-LAW MUNICIPALITY WITH POPULATION OF MORE THAN 5,000 TO ANNEX AREA ON PETITION AND ELECTION OF AREA VOTERS
- Sec. 43.024. AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY TO ANNEX AREA ON REQUEST OF AREA VOTERS
- Sec. 43.025. AUTHORITY OF TYPE B GENERAL-LAW MUNICIPALITY TO ANNEX AREA ON REQUEST OF AREA VOTERS
- Sec. 43.026. AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY TO ANNEX AREA IT OWNS
- Sec. 43.027. AUTHORITY OF GENERAL-LAW MUNICIPALITY TO ANNEX NAVIGABLE STREAM
- Sec. 43.028. AUTHORITY OF MUNICIPALITIES TO ANNEX SPARSELY OCCUPIED AREA ON PETITION OF AREA LANDOWNERS
- Sec. 43.029. AUTHORITY OF CERTAIN SMALL MUNICIPALITIES TO ANNEX UNOCCUPIED AREA ON PETITION OF SCHOOL BOARD
- Sec. 43.030. AUTHORITY OF MUNICIPALITY WITH POPULATION OF 70,000 TO 90,000 IN URBAN COUNTY TO ANNEX SMALL, SURROUNDED GENERAL-LAW MUNICIPALITY
- Sec. 43.031. AUTHORITY OF ADJACENT MUNICIPALITIES TO CHANGE BOUNDARIES BY AGREEMENT

[Sections 43.032–43.050 reserved for expansion]

SUBCHAPTER C. ANNEXATION PROCEDURE

- Sec. 43.051. AUTHORITY TO ANNEX LIMITED TO EXTRATERRITORIAL JURISDICTION
- Sec. 43.052. ANNEXATION HEARING REQUIREMENTS
- Sec. 43.053. PERIOD FOR COMPLETION OF ANNEXATION
- Sec. 43.054. WIDTH REQUIREMENTS
- Sec. 43.055. MAXIMUM AMOUNT OF ANNEXATION EACH YEAR
- Sec. 43.056. PROVISION OF SERVICES TO ANNEXED AREA
- Sec. 43.057. ANNEXATION THAT SURROUNDS AREA: FINDINGS REQUIRED

[Sections 43.058–43.070 reserved for expansion]

SUBCHAPTER D. ANNEXATION PROVISIONS RELATING TO SPECIAL DISTRICTS

- Sec. 43.071. AUTHORITY TO ANNEX WATER OR SEWER DISTRICT
- Sec. 43.072. AUTHORITY TO ANNEX MUNICIPAL UTILITY DISTRICT BY HOME-RULE MUNICIPALITY
- Sec. 43.073. ABOLITION OF, OR DIVISION OF FUNCTIONS OF, LEVEE IMPROVEMENT DISTRICT ANNEXED BY MUNICIPALITY WITH POPULATION OF MORE THAN 425,000
- Sec. 43.074. ABOLITION OF WATER-RELATED SPECIAL DISTRICT CREATED WHOLLY IN MUNICIPALITY

- Sec. 43.075. ABOLITION OF, OR DIVISION OF FUNCTIONS OF, WATER-RELATED SPECIAL DISTRICT THAT BECOMES PART OF NOT MORE THAN ONE MUNICIPALITY
- Sec. 43.076. ABOLITION OF WATER-RELATED SPECIAL DISTRICT THAT BECOMES PART OF MORE THAN ONE MUNICIPALITY
- Sec. 43.077. ABOLITION OF CERTAIN CONSERVATION AND RECLAMATION DISTRICTS THAT BECOME PART OF MORE THAN ONE MUNICIPALITY
- Sec. 43.078. ALTERNATE METHOD OF ABOLITION OF CONSERVATION AND RECLAMATION DISTRICT THAT BECOMES PART OF MORE THAN ONE MUNICIPALITY
- Sec. 43.079. CONSENT REQUIREMENT FOR ANNEXATION OF AREA IN CERTAIN CONSERVATION AND RECLAMATION DISTRICTS
- Sec. 43.080. MUNICIPAL BONDS USED TO CARRY OUT PURPOSES OF ABOLISHED CONSERVATION AND RECLAMATION DISTRICT
- Sec. 43.081. CONTINUATION OF CERTAIN MUNICIPAL WATER BOARDS ON ANNEXATION OF WATER CONTROL AND IMPROVEMENT DISTRICT

[Sections 43.082–43.100 reserved for expansion]

SUBCHAPTER E. ANNEXATION PROVISIONS RELATING TO RESERVOIRS, AIRPORTS, STREETS, AND CERTAIN OTHER AREAS

- Sec. 43.101. ANNEXATION OF MUNICIPALLY OWNED RESERVOIR BY GENERAL-LAW MUNICIPALITY
- Sec. 43.102. ANNEXATION OF MUNICIPALLY OWNED AIRPORT
- Sec. 43.103. ANNEXATION OF STREETS BY GENERAL-LAW MUNICIPALITY WITH POPULATION OF 1,245 TO 1,260; 4,350 TO 4,374; OR 17,850 TO 17,900
- Sec. 43.104. ANNEXATION OF STREETS BY MUNICIPALITY OF WICKETT

[Sections 43.105–43.120 reserved for expansion]

SUBCHAPTER F. LIMITED PURPOSE ANNEXATION ALONG NAVIGABLE STREAM

- Sec. 43.121. LIMITED PURPOSE ANNEXATION ALONG NAVIGABLE STREAM
- Sec. 43.122. TAXATION PROHIBITED
- Sec. 43.123. REGULATION; CRIMINAL PENALTIES
- Sec. 43.124. INDUSTRIAL DISTRICT

[Sections 43.125–43.140 reserved for expansion]

SUBCHAPTER G. DISANNEXATION

- Sec. 43.141. DISANNEXATION FOR FAILURE TO PROVIDE SERVICES
- Sec. 43.142. DISANNEXATION ACCORDING TO MUNICIPAL CHARTER IN HOME-RULE MUNICIPALITY
- Sec. 43.143. DISANNEXATION BY PETITION AND ELECTION IN GENERAL-LAW MUNICIPALITY
- Sec. 43.144. DISANNEXATION OF SPARSELY POPULATED AREA IN GENERAL-LAW MUNICIPALITY
- Sec. 43.145. DISANNEXATION OF UNIMPROVED AREA OR NONTAXABLE AREA IN CERTAIN MUNICIPALITIES

[Sections 43.146–43.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 43.901. CIRCUMSTANCES IN WHICH CONSENT TO BOUNDARIES OR ANNEXATION IS PRESUMED
- Sec. 43.902. ANNEXATION, EXTRATERRITORIAL JURISDICTION, AND EMINENT DOMAIN ON INACCESSIBLE GULF ISLAND
- Sec. 43.903. EFFECT OF ANNEXATION ON RAILROAD SWITCHING LIMITS OR RATES

CHAPTER 43. MUNICIPAL ANNEXATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 43.001. DEFINITION. In this chapter, "extraterritorial jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42. (New.)

Sec. 43.002. CHARTER PROVISIONS REGARDING LIMITED-PURPOSE ANNEXATION NOT AFFECTED. This chapter does not limit or repeal any part of a home-rule municipality's charter providing for annexation for limited purposes other than property taxation. (V.A.C.S. Art. 970a, Sec. 10, Subsec. C (part).)

[Sections 43.003–43.020 reserved for expansion]

SUBCHAPTER B. GENERAL AUTHORITY TO ANNEX

Sec. 43.021. AUTHORITY OF HOME-RULE MUNICIPALITY TO ANNEX AREA AND TAKE OTHER ACTIONS REGARDING BOUNDARIES. A home-rule municipality may take the following actions according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by this chapter:

- (1) fix the boundaries of the municipality;
- (2) extend the boundaries of the municipality and annex area adjacent to the municipality; and
- (3) exchange area with other municipalities. (V.A.C.S. Art. 1175, Subdiv. 2 (part).)

Sec. 43.022. VOTER APPROVAL OF ANNEXATION BY HOME-RULE MUNICIPALITY REQUIRED UNDER CERTAIN CIRCUMSTANCES. (a) If, under its charter, the governing body of a home-rule municipality initiates or orders an election to submit to the qualified voters of the municipality the question of annexing an adjacent area, the governing body shall at the same time order an election to be held at a convenient location in the municipality to submit the question to the qualified voters of that area.

(b) The election order must:

- (1) provide for separate elections for the voters of the municipality and for the voters of the area;
- (2) be issued in the manner provided for other municipal elections;
- (3) describe the area by metes and bounds; and
- (4) provide for voting for or against the proposition: "The annexation of additional area, the assumption by the municipality of all bonded indebtedness and flat rates on the area and due to an irrigation district, water improvement district, or water control and improvement district, and the levy and collection of a tax on all property in the municipality sufficient to pay off and discharge the bonded indebtedness and flat rates."

(c) Public notice of the election must be given in the manner provided for other municipal elections.

(d) If, at the elections, a majority of the qualified voters of the municipality and a majority of the qualified voters of the area each approve the question, the municipality assumes all the bonded indebtedness and flat rates on the annexed area and due to the irrigation district, water improvement district, or water control and improvement district. The municipality shall pay, from the date of the annexation and out of the taxes collected on the area, the bonded indebtedness and the flat rates owed to the special district as they become due and payable. The municipality may not collect any taxes due to the municipality from a property owner of the area until the municipality pays the bonded indebtedness and the flat rates for the current year that they become due and payable and presents to the property owner the receipt for the payment.

(e) If the question is not approved as required by Subsection (d), the area may not be annexed.

(f) This section does not affect a charter provision providing for annexation of area by ordinance in a home-rule municipality with a population of more than 100,000. This section grants additional power to the municipality and is cumulative of the municipal charter. (V.A.C.S. Art. 1182a.)

Sec. 43.023. AUTHORITY OF GENERAL-LAW MUNICIPALITY WITH POPULATION OF MORE THAN 5,000 TO ANNEX AREA ON PETITION AND ELECTION OF

AREA VOTERS. (a) A general-law municipality with a population of more than 5,000 may annex, as provided by this section, an area that is contiguous to the municipality and that is not more than one mile in width.

(b) The inhabitants of the area may petition the municipality to order an election in the area at which the qualified voters of the area may vote on the question of whether the area should become a part of the municipality. The petition must:

- (1) describe the area by metes and bounds;
- (2) be accompanied by a plat of the area;
- (3) be signed by 100, or more, or by a majority of the qualified voters of the area; and
- (4) be filed with the secretary or clerk of the municipality.

(c) After the petition is filed, the governing body of the municipality by ordinance may order the election. In the ordinance, the governing body shall specify the date of the election and each voting place, appoint the election officers, and prescribe the form of the ballot.

(d) Notice of the election must be given by posting a copy of the ordinance, certified by the secretary or clerk of the municipality in three public places in the area for the 10 days preceding the date of the election. The notice must be published as required by Chapter 4, Election Code.

(e) The election must be held in the manner prescribed for general municipal elections. The municipality shall pay the cost of the election.

(f) The governing body, by an order entered in its minutes, shall declare the election result. The order is conclusive of the municipality's authority to annex the area. If the result of the election establishes that a majority are in favor of becoming part of the municipality, the governing body by ordinance may annex the area.

(g) On the effective date of the ordinance, the area becomes a part of the municipality and the inhabitants of the area are entitled to the rights and privileges of the other citizens of the municipality and are bound by the acts and ordinances adopted by the municipality.

(h) To contest an annexation proceeding held under this section, a contestant must file written notice and a written statement of the grounds for the contest with the secretary or clerk of the municipality within 60 days after the effective date of the ordinance annexing the area. If a contest is not filed in that manner before the expiration of that period, it is conclusively presumed that the election and the results of the election are valid, final, and binding on all courts. (V.A.C.S. Arts. 974-1, 974-2 (part).)

Sec. 43.024. AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY TO ANNEX AREA ON REQUEST OF AREA VOTERS. (a) This section applies only to the annexation of an area that:

- (1) is one-half mile or less in width; and
- (2) is contiguous to a Type A general-law municipality.

(b) If a majority of the qualified voters of the area vote in favor of becoming a part of the municipality, any three of those voters may prepare an affidavit to the fact of the vote and file the affidavit with the mayor of the municipality.

(c) The mayor shall certify the filed affidavit to the governing body of the municipality. On receipt of the certified affidavit, the governing body by ordinance may annex the area.

(d) On the effective date of the ordinance, the area becomes a part of the municipality and the inhabitants of the area are entitled to the rights and privileges of other citizens of the municipality and are bound by the acts and ordinances adopted by the municipality. (V.A.C.S. Art. 974.)

Sec. 43.025. AUTHORITY OF TYPE B GENERAL-LAW MUNICIPALITY TO ANNEX AREA ON REQUEST OF AREA VOTERS. (a) If a majority of the qualified voters of an area contiguous to a Type B general-law municipality vote in favor of becoming a

part of the municipality, any three of those voters may prepare an affidavit to the fact of the vote and file the affidavit with the mayor of the municipality.

(b) The mayor shall certify the filed affidavit to the governing body of the municipality. On receipt of the certified affidavit, the governing body by ordinance may annex the area.

(c) On the effective date of the ordinance, the area becomes a part of the municipality and the inhabitants of the area are entitled to the rights and privileges of other citizens of the municipality and are bound by the acts and ordinances adopted by the municipality.

(d) The municipality may not be enlarged under this section to exceed the area requirements established by Section 5.901. (V.A.C.S. Art. 1135.)

Sec. 43.026. **AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY TO ANNEX AREA IT OWNS.** The governing body of a Type A general-law municipality by ordinance may annex area that the municipality owns. The ordinance must describe the area by metes and bounds and must be entered in the minutes of the governing body. (V.A.C.S. Art. 965 (part).)

Sec. 43.027. **AUTHORITY OF GENERAL-LAW MUNICIPALITY TO ANNEX NAVIGABLE STREAM.** The governing body of a general-law municipality by ordinance may annex any navigable stream adjacent to the municipality and within the municipality's extraterritorial jurisdiction. (V.A.C.S. Art. 974g-1, Sec. 1.)

Sec. 43.028. **AUTHORITY OF MUNICIPALITIES TO ANNEX SPARSELY OCCUPIED AREA ON PETITION OF AREA LANDOWNERS.** (a) This section applies only to the annexation of an area:

- (1) that is one-half mile or less in width;
- (2) that is contiguous to the annexing municipality; and
- (3) that is vacant and without residents or on which fewer than three qualified voters reside.

(b) The owners of the area may petition the governing body of the municipality in writing to annex the area.

(c) The petition must describe the area by metes and bounds and must be acknowledged in the manner required for deeds by each person having an interest in the area.

(d) After the 5th day but on or before the 30th day after the date the petition is filed, the governing body shall hear the petition and the arguments for and against the annexation and shall grant or refuse the petition as the governing body considers appropriate.

(e) If the governing body grants the petition, the governing body by ordinance may annex the area. On the effective date of the ordinance, the area becomes a part of the municipality and the inhabitants of the area are entitled to the rights and privileges of other citizens of the municipality and are bound by the acts and ordinances adopted by the municipality.

(f) If the petition is granted and the ordinance is adopted, a certified copy of the ordinance together with a copy or duplicate of the petition shall be filed in the office of the county clerk of the county in which the municipality is located. (V.A.C.S. Art. 974g, Sec. 1.)

Sec. 43.029. **AUTHORITY OF CERTAIN SMALL MUNICIPALITIES TO ANNEX UNOCCUPIED AREA ON PETITION OF SCHOOL BOARD.** (a) This section applies only to a municipality with a population of:

- (1) 900 to 920;
- (2) 1,251 to 1,259; or
- (3) 3,944 to 3,964.

(b) This section applies only to the annexation of an area that is:

- (1) contiguous to the annexing municipality; and
- (2) vacant and without residents.

(c) The board of trustees of a public school occupying the area may petition the governing body of the municipality in writing to annex the area. Sections 43.028(c)-(f) apply to the petition and annexation under this section in the same manner in which they apply to the petition and annexation under that section. (V.A.C.S. Arts. 974e-1, 974e-5, 974e-6.)

Sec. 43.030. AUTHORITY OF MUNICIPALITY WITH POPULATION OF 70,000 TO 90,000 IN URBAN COUNTY TO ANNEX SMALL, SURROUNDED GENERAL-LAW MUNICIPALITY. (a) A municipality that has a population of 70,000 to 90,000, that is located wholly or partly in a county with a population of more than 1,000,000, and that completely surrounds and is contiguous to a general-law municipality with a population of less than 600, may annex the general-law municipality as provided by this section.

(b) The governing body of the smaller municipality may adopt an ordinance ordering an election on the question of consenting to the annexation of the smaller municipality by the larger municipality. The governing body of the smaller municipality shall adopt the ordinance if it receives a petition to do so signed by a number of qualified voters of the municipality equal to at least 10 percent of the number of voters of the municipality who voted in the most recent general election. If the ordinance ordering the election is to be adopted as a result of a petition, the ordinance shall be adopted within 30 days after the date the petition is received.

(c) The ordinance ordering the election must provide for the submission of the question at an election to be held on the first uniform election date prescribed by Chapter 41, Election Code, that occurs after the 30th day after the date the ordinance is adopted and that affords enough time to hold the election in the manner required by law.

(d) Within 10 days after the date on which the election is held, the governing body of the smaller municipality shall canvass the election returns and by resolution shall declare the results of the election. If a majority of the votes received is in favor of the annexation, the secretary of the smaller municipality or other appropriate municipal official shall forward by certified mail to the secretary of the larger municipality a certified copy of the resolution.

(e) The larger municipality, within 90 days after the date the resolution is received, must complete the annexation by ordinance in accordance with its municipal charter or the general laws of the state. If the annexation is not completed within the 90-day period, any annexation proceeding is void and the larger municipality may not annex the smaller municipality under this section. However, the failure to complete the annexation as provided by this subsection does not prevent the smaller municipality from holding a new election on the question to enable the larger municipality to annex the smaller municipality as provided by this section.

(f) If the larger municipality completes the annexation within the prescribed period, the incorporation of the smaller municipality is abolished. The records, public property, public buildings, money on hand, credit accounts, and other assets of the smaller municipality become the property of the larger municipality and shall be turned over to the officers of that municipality. The offices in the smaller municipality are abolished and the persons holding those offices are not entitled to further remuneration or compensation. All outstanding liabilities of the smaller municipality are assumed by the larger municipality.

(g) In the annexation ordinance, the larger municipality shall adopt, for application in the area zoned by the smaller municipality, the identical comprehensive zoning ordinance that the smaller municipality applied to the area at the time of the election. Any attempted annexation of the smaller municipality that does not include the adoption of that comprehensive zoning ordinance is void. That comprehensive zoning ordinance may not be repealed or amended for a period of 10 years unless the written consent of the landowners who own at least two-thirds of the surface land of the annexed smaller municipality is obtained.

(h) If the annexed smaller municipality has on hand any bond funds for public improvements that are not appropriated or contracted for, the funds shall be kept in a separate special fund to be used only for public improvements in the area for which the bonds were voted.

(i) On the annexation, all claims, fines, debts, or taxes due and payable to the smaller municipality become due and payable to the larger municipality and shall be collected by it. If taxes for the year in which the annexation occurs have been assessed in the smaller municipality before the annexation, the amounts assessed remain as the amounts due and payable from the inhabitants of the smaller municipality for that year.

(j) This section does not affect a charter provision of a home-rule municipality. This section grants additional power to the municipality and is cumulative of the municipal charter. (V.A.C.S. Art. 1265a.)

Sec. 43.031. **AUTHORITY OF ADJACENT MUNICIPALITIES TO CHANGE BOUNDARIES BY AGREEMENT.** Adjacent municipalities may make mutually agreeable changes in their boundaries of areas that are less than 500 feet in width. (V.A.C.S. Art. 970a, Sec. 7, Subsec. B-1(a) (part).)

[Sections 43.032-43.050 reserved for expansion]

SUBCHAPTER C. ANNEXATION PROCEDURE

Sec. 43.051. **AUTHORITY TO ANNEX LIMITED TO EXTRATERRITORIAL JURISDICTION.** A municipality may annex area only in its extraterritorial jurisdiction unless the municipality owns the area. (V.A.C.S. Art. 970a, Sec. 7, Subsec. A.)

Sec. 43.052. **ANNEXATION HEARING REQUIREMENTS.** (a) Before a municipality may institute annexation proceedings, the governing body of the municipality must conduct two public hearings at which persons interested in the annexation are given the opportunity to be heard. The hearings must be conducted on or after the 40th day but before the 20th day before the date of the institution of the proceedings.

(b) At least one of the hearings must be held in the area proposed for annexation if more than 20 adult residents of the area file a written protest of the annexation with the secretary of the municipality within 10 days after the date of the publication of the notice required by this section. The protest must state the name, address, and age of each protestor who signs.

(c) The municipality must publish notice of the hearings in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The municipality must give additional notice by certified mail to each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation. (V.A.C.S. Art. 970a, Sec. 6 (part).)

Sec. 43.053. **PERIOD FOR COMPLETION OF ANNEXATION.** The annexation of an area must be completed within 90 days after the date the governing body institutes the annexation proceedings or those proceedings are void. Any period during which the municipality is restrained or enjoined by a court of competent jurisdiction from annexing the area is not included in computing the 90-day period. (V.A.C.S. Art. 970a, Sec. 6 (part).)

Sec. 43.054. **WIDTH REQUIREMENTS.** (a) Except as otherwise provided by this section, a municipality may not annex a publicly or privately owned area unless the width of the area at its narrowest point is at least 500 feet.

(b) The prohibition established by Subsection (a) does not apply if:

(1) the boundaries of the municipality are contiguous to the area on at least two sides; or

(2) the annexation is initiated on the written petition of the owners or of a majority of the qualified voters of the area. (V.A.C.S. Art. 970a, Sec. 7, Subsec. B-1(a) (part).)

Sec. 43.055. **MAXIMUM AMOUNT OF ANNEXATION EACH YEAR.** (a) In a calendar year, a municipality may not annex a total area greater than 10 percent of the incorporated area of the municipality as of January 1 of that year, plus any amount of area carried over to that year under Subsection (b). In determining the total area annexed in a calendar year, an annexed area is not included if it is:

- (1) annexed at the request of a majority of the qualified voters of the area and the owners of at least 50 percent of the land in the area;
 - (2) owned by the municipality, a county, the state, or the federal government and used for a public purpose;
 - (3) annexed at the request of at least a majority of the qualified voters of the area;
- or
- (4) annexed at the request of the owners of the area.

(b) If a municipality fails to annex in a calendar year the entire 10 percent amount permitted under Subsection (a), the municipality may carry over the unused allocation for use in subsequent calendar years.

(c) A municipality carrying over an allocation may not annex in a calendar year a total area greater than 30 percent of the incorporated area of the municipality as of January 1 of that year. (V.A.C.S. Art. 970a, Sec. 7, Subsecs. B, C.)

Sec. 43.056. PROVISION OF SERVICES TO ANNEXED AREA. (a) Before the publication of the notice of the first hearing required under Section 43.052, the governing body of the municipality proposing the annexation shall direct its planning department or other appropriate municipal department to prepare a service plan that provides for the extension of municipal services to the area to be annexed. The municipality shall provide the services by any of the methods by which it extends the services to any other area of the municipality.

(b) The service plan must include a program under which the municipality will provide the following services in the area within 60 days after the effective date of the annexation of the area:

- (1) police protection;
- (2) fire protection;
- (3) solid waste collection;
- (4) maintenance of water and wastewater facilities;
- (5) maintenance of roads and streets, including road and street lighting;
- (6) maintenance of parks, playgrounds, and swimming pools; and
- (7) maintenance of any other publicly owned facility, building, or service.

(c) The service plan must also include a program under which the municipality will initiate the acquisition or construction of capital improvements necessary for providing municipal services for the area. The construction shall begin within 2-½ years after the effective date of the annexation of the area. The acquisition or construction of the facilities shall be accomplished by purchase, lease, or other contract or by the municipality succeeding to the powers, duties, assets, and obligations of a conservation and reclamation district as authorized or required by law. Money received from the sale of bonds or evidenced by other instruments of indebtedness may not be allocated to the area for a period of 180 days.

(d) A service plan may not provide fewer services or a lower level of services in the area than were in existence in the area immediately preceding the date of the annexation. This section does not require that a uniform level of services be provided to each area of the municipality if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

(e) If only a part of the area to be annexed is actually annexed, the governing body shall direct the department to prepare a revised service plan for that part.

(f) The proposed service plan must be made available for public inspection and explained to the inhabitants of the area at the public hearings held under Section 43.052. The plan may be amended through negotiation at the hearings, but the provision of any service may not be deleted. On completion of the public hearings, the service plan shall be attached to the ordinance annexing the area and approved as part of the ordinance.

(g) On approval by the governing body, the service plan is a contractual obligation that is not subject to amendment or repeal except that if the governing body determines at the public hearings required by this subsection that changed conditions or subsequent

occurrences make the service plan unworkable or obsolete, the governing body may amend the service plan to conform to the changed conditions or subsequent occurrences. An amended service plan must provide for services that are comparable to or better than those established in the service plan before amendment. Before any amendment is adopted, the governing body must provide an opportunity for interested persons to be heard at public hearings called and held in the manner provided by Section 43.052.

(h) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality.

(i) A municipality that annexes an area shall provide the area or cause the area to be provided with services in accordance with the service plan for the area. (V.A.C.S. Art. 970a, Sec. 10, Subsecs. A, B, C (part), D, E, F (part).)

Sec. 43.057. ANNEXATION THAT SURROUNDS AREA: FINDINGS REQUIRED. If a proposed annexation would cause an area to be entirely surrounded by the annexing municipality but would not include the area within the municipality, the governing body of the municipality must find, before completing the annexation, that surrounding the area is in the public interest. (V.A.C.S. Art. 970a, Sec. 7, Subsec. F.)

[Sections 43.058–43.070 reserved for expansion]

SUBCHAPTER D. ANNEXATION PROVISIONS RELATING TO SPECIAL DISTRICTS

Sec. 43.071. AUTHORITY TO ANNEX WATER OR SEWER DISTRICT. (a) In this section, “water or sewer district” means a district or authority created under Article III, Section 52, Subsections (b)(1) and (2), or under Article XVI, Section 59, of the Texas Constitution that provides or proposes to provide, as its principal function, water services or sewer services or both to household users. The term does not include a district or authority the primary function of which is the wholesale distribution of water.

(b) A municipality may not annex area in a water or sewer district unless it annexes the entire part of the district that is outside the municipality’s boundaries. This restriction does not apply to the annexation of area in a water or sewer district if the district is wholly or partly in the extraterritorial jurisdiction of more than one municipality.

(c) An annexation subject to Subsection (b) is exempt from the provisions of this chapter that limit annexation authority to a municipality’s extraterritorial jurisdiction if:

- (1) immediately before the annexation, at least one-half of the area of the water or sewer district is in the municipality or its extraterritorial jurisdiction; and
- (2) the municipality does not annex in the annexation proceeding any area outside its extraterritorial jurisdiction except the part of the district that is outside its extraterritorial jurisdiction.

(d) Area annexed under Subsection (b) is included in computing the amount of area that a municipality may annex under Section 43.055 in a calendar year. If the area to be annexed exceeds the amount of area the municipality would otherwise be able to annex, the municipality may annex the area but may not annex additional area during the remainder of that calendar year, except area subject to Subsection (b) and area that is excluded from the computation under Section 43.055.

(e) Subsections (b)-(d) do not apply to the annexation of:

- (1) an area within a water or sewer district if:
 - (A) the governing body of the district consents to the annexation;
 - (B) the owners in fee simple of the area to be annexed consent to the annexation; and
 - (C) the annexed area does not exceed 525 feet in width at its widest point;
- (2) a water or sewer district that has a noncontiguous part that is not within the extraterritorial jurisdiction of the municipality; or

(3) a part of a special utility district created or operating under Chapter 65, Water Code. (V.A.C.S. Art. 970a, Sec. 11; Water Code, Secs. 50.202, 50.380 (as added by Ch. 435, Acts 68th Leg., R.S., 1983), 65.732.)

Sec. 43.072. **AUTHORITY TO ANNEX MUNICIPAL UTILITY DISTRICT BY HOME-RULE MUNICIPALITY.** (a) This section applies to a municipal utility district that is located entirely in the extraterritorial jurisdiction of a single general-law municipality and that has a common boundary with at least one home-rule municipality.

(b) A home-rule municipality having a common boundary with a district subject to this section may annex the area of the district if:

(1) the annexation is approved by a majority of the qualified voters who vote on the question at an election held under this section;

(2) the annexation is completed before the date that is one year after the date of the election; and

(3) all the area of the district is annexed.

(c) Area annexed under Subsection (b) is included in computing the amount of area that a municipality may annex under Section 43.055 in a calendar year. If the area to be annexed exceeds the amount of area the municipality would otherwise be able to annex, the municipality may annex the area but may not annex additional area during the remainder of that calendar year, except area subject to Subsection (b) and area that is excluded from the computation under Section 43.055.

(d) Annexation of area under this section is exempt from the provisions of this chapter that prohibit:

(1) a municipality from annexing area outside its extraterritorial jurisdiction;

(2) annexation of area narrower than 500 feet at its narrowest point; or

(3) reduction of the extraterritorial jurisdiction of a municipality without the written consent of the municipality's governing body.

(e) If the district is composed of two or more tracts, at least one of which is not contiguous to the home-rule municipality, the fact that the annexation will result in one or more parts of the home-rule municipality being not contiguous to the rest of the municipality does not affect the municipality's authority to annex the district.

(f) The extraterritorial jurisdiction of a home-rule municipality is not expanded by the annexation of area under this section.

(g) The board of directors of the district may order an election under this section. The board shall conduct the election in the area composed of the district and the general-law municipality. A person who is qualified to vote in the general-law municipality or the district is eligible to vote in the election.

(h) The board of directors shall set the date of the election for the first uniform election date that falls on or after the 30th day after the date of the order. If a state law prescribing uniform election dates is not in effect on the date of the order, the board shall set the election for a date that falls on or after the 30th day but before the 60th day after the date of the order.

(i) The board of directors shall give notice of the election in the manner provided for an election of the members of the board. The ballot for the election shall be printed to provide for voting for or against the proposition: "Authorizing the municipality of (name of the home-rule municipality) to annex the unincorporated area of the (name of the district)."

(j) Promptly after the board of directors declares the result of the election:

(1) the board shall mail or deliver a certified copy of the resolution declaring the result of the election to the mayor and the secretary of each of the two affected municipalities; and

(2) if the election authorizes annexation of the district by the home-rule municipality, the board shall file a certified copy of the resolution in the deed records of each county in which the district is located.

(k) During the time that an election under this section is pending, the general-law municipality may not annex area in the district. For the purposes of this requirement, an election is pending during the period that begins on the date the board of directors adopts the election order and ends on the date the board declares the result of the election. If, on the date the election order is adopted, the general-law municipality has instituted but not completed proceedings to annex area in the district, the general-law municipality may complete the annexation while the election is pending. If proceedings are completed while the election is pending, the annexation, to the extent that it includes area in the district, takes effect only if the election results in the defeat of the question and, in that case, it takes effect on the date the result of the election is officially declared.

(l) If the question is approved, the period during which the general-law municipality is prohibited from annexing area in the district is extended to the date that is one year after the date of the election.

(m) If a district holds an election under this section, the district may not hold another election under this section before the date that is one year after the date of the earlier election, except that if an election is held on a uniform election date prescribed by law, the subsequent election may be held on the corresponding uniform election date of the following year. (V.A.C.S. Art. 970a, Sec. 12.)

Sec. 43.073. ABOLITION OF, OR DIVISION OF FUNCTIONS OF, LEVEE IMPROVEMENT DISTRICT ANNEXED BY MUNICIPALITY WITH POPULATION OF MORE THAN 425,000. (a) This section applies to a municipality with a population of more than 425,000 that annexes all or part of the area in a levee improvement district organized under the laws of this state.

(b) If the municipality annexes all the area in the district, the municipality:

- (1) shall take over the property and other assets of the district;
- (2) assumes all the debts, liabilities, and obligations of the district; and
- (3) shall perform all the functions of the district, including the provision of services.

(c) The district is abolished on the annexation of all of its area by the municipality. The abolition of the district does not impair or otherwise affect a contract between the district and a flood control district or other governmental agency for the operation or maintenance of levees or other flood control works, but the municipality assumes the rights and obligations of the district under the contract. On the annexation of all of the area of the district, the municipality may refund, in whole or in part, any outstanding bonded indebtedness and may provide for a sufficient sinking fund to meet any refunding bonds issued.

(d) If the municipality annexes only part of the area in the district, the governing bodies of the municipality and the district may make contracts relating to the division and allocation between themselves of their duplicate and overlapping powers, duties, and other functions and relating to the use, management, control, purchase, conveyance, assumption, and disposition of the property and other assets, debts, liabilities, and obligations of the district. The amount of taxes levied by the district against a parcel of real estate subsequently annexed by the municipality shall be credited against any property taxes levied against the parcel by the municipality.

(e) If the municipality annexes only part of the area in the district, the district may contract with the municipality for the municipal operation of the district's utility systems and other property and for the transfer, conveyance, or sale of those systems and that property, regardless of kind or location inside or outside municipal boundaries, to the municipality on terms to which the governing bodies of the district and municipality agree. That operating contract may extend for a period, not to exceed 30 years, stipulated in the contract and is subject to amendment, renewal, or termination by the mutual consent of the governing bodies. The contract may not impair the obligation of another contract of the municipality or district. In the absence of such a contract, the district may continue to exercise, unaffected by the annexation, the powers, duties, and other functions granted or imposed on the district by law. The municipality may not be required to perform any drainage functions in the district. The municipality may, with the consent of the district, construct and maintain drainage facilities in the district that

are consistent with the reclamation plan of the district. The municipality may perform all *other municipal functions that the municipality is authorized to perform and that the district is not engaged in performing nor authorized to perform.* (V.A.C.S. Art. 974e-8, Sec. 1.)

Sec. 43.074. ABOLITION OF WATER-RELATED SPECIAL DISTRICT CREATED WHOLLY IN MUNICIPALITY. (a) A water control and improvement district, fresh water supply district, or municipal utility district created from area that, at the time of the district's creation, is located wholly in a municipality may be abolished as provided by this section.

(b) On a vote of at least two-thirds of the entire membership of the governing body of the municipality, the governing body may adopt an ordinance abolishing the district if the governing body finds:

(1) that:

(A) the district is no longer needed; or

(B) the services furnished and functions performed by the district can be furnished and performed by the municipality; and

(2) that the abolition of the district is in the best interests of the residents and property in the municipality and the district.

(c) If before the effective date of the ordinance or if within 30 days after the effective date or the date of the publication of the ordinance, a petition that is signed and verified by a number of qualified voters of the municipality equal to at least 10 percent of the total votes cast at the most recent election for municipal officers is filed with the secretary of the municipality protesting the enactment or enforcement of the ordinance, the ordinance is suspended and any action taken under the ordinance is void. Immediately after the filing of the petition, the secretary shall present it to the governing body. Immediately after the presentation of the petition, the governing body shall reconsider the ordinance. If the governing body does not repeal the ordinance, the governing body shall submit it to a popular vote at the next municipal election or at a special election the governing body may order for that purpose. The ordinance does not take effect unless a majority of the votes received in the election favor the ordinance.

(d) On the adoption of the ordinance, the district is abolished, the property and other assets of the district vest in the municipality, and the municipality assumes and becomes liable for the bonds and other obligations of the district. The municipality shall perform the services and other functions that were performed by the district.

(e) If a district bond, warrant, or other obligation payable in whole or in part from property taxes is assumed by the municipality, the governing body shall levy and collect taxes on all taxable property in the municipality in an amount sufficient to pay the principal of and interest on the bond, warrant, or other obligation as it becomes due and payable.

(f) The municipality may issue refunding bonds in its own name to refund bonds, warrants, or other obligations, including unpaid accrued interest on an obligation, that is assumed by the municipality. The refunding bonds must be issued in the manner provided by the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes), except that a notice of the intention to issue the bonds is not required and a right of referendum does not exist. (V.A.C.S. Art. 1182c-1, Sec. 2a.)

Sec. 43.075. ABOLITION OF, OR DIVISION OF FUNCTIONS OF, WATER-RELATED SPECIAL DISTRICT THAT BECOMES PART OF NOT MORE THAN ONE MUNICIPALITY. (a) This section applies to:

(1) a municipality that annexes all or part of the area in a water control and improvement district, fresh water supply district, or municipal utility district organized for the primary purpose of providing municipal functions such as the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer service or drainage service; or

(2) a municipality:

(A) that, by incorporation of the municipality, includes in the municipality all or part of the area in a district described by Subdivision (1); and

(B) the governing body of which adopts, by a vote of at least two-thirds of its entire membership, an ordinance making this section applicable to the municipality.

(b) This section does not apply if the district includes area located in more than one municipality.

(c) The municipality succeeds to the powers, duties, assets, and obligations of the district as provided by this section. This section does not prohibit the municipality from continuing to operate utility facilities in the district that are owned and operated by the municipality on the date the area becomes a part of the municipality.

(d) If all the area in the district becomes a part of the municipality, the municipality:

(1) shall take over all the property and other assets of the district;

(2) assumes all the debts, liabilities, and obligations of the district; and

(3) shall perform all the functions of the district, including the provision of services.

(e) The governing body of the municipality by ordinance shall designate the date on which the duties and the assumption under Subsection (d) take effect. The date must be set for a day within 90 days after the date the area becomes a part of the municipality. If the governing body fails to adopt the ordinance, the duties and the assumption automatically take effect on the 91st day after the date the area becomes a part of the municipality. The district is abolished on the date the duties and assumption take effect.

(f) If only part of the area in the district becomes a part of the municipality, the governing bodies of the municipality and the district may make contracts relating to the division and allocation between themselves of their duplicate and overlapping powers, duties, and other functions and relating to the use, management, control, purchase, conveyance, assumption, and disposition of the property and other assets, debts, liabilities, and obligations of the district.

(g) If only part of the area in the district becomes a part of the municipality, the district may contract with the municipality for the municipal operation of the district's utility systems and other property and for the transfer, conveyance, or sale of those systems and that property, regardless of kind or location inside or outside municipal boundaries, to the municipality on terms to which the governing bodies of the district and municipality agree. That operating contract may extend for a period, not to exceed 30 years, stipulated in the contract and is subject to amendment, renewal, or termination by the mutual consent of the governing bodies. The contract may not impair the obligation of another contract of the municipality or district. In the absence of such a contract, the district may continue to exercise the powers and other functions that it was authorized to exercise before the area became a part of the municipality, and the municipality may not, without the district's consent, duplicate the services rendered by the district in the district. However, the municipality may perform in the district all other municipal functions in which the district is not engaged.

(h) If a district bond, warrant, or other obligation payable in whole or in part from property taxes is assumed under this section by the municipality, the governing body shall levy and collect taxes on all taxable property in the municipality in an amount sufficient to pay the principal of and interest on the bond, warrant, or other obligation as it becomes due and payable. The municipality may issue refunding bonds or warrants to refund bonds, warrants, or other obligations, including unpaid earned interest on them, that is assumed by the municipality. The refunding bonds or warrants must be issued in the manner provided by the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes), except a notice of the intention to issue the bonds or warrants is not required and a right of referendum does not exist. A refunding bond must bear interest at the same rate or at a lower rate than that borne by the refunded obligation unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

(i) If all the area in the district becomes a part of the municipality and if the district has outstanding bonds, warrants, or other obligations payable solely from the net revenues from the operation of any utility system or property, the municipality shall take

over and operate the system or property and shall apply the net revenues from the operation to the payment of the outstanding revenue bonds, warrants, or other obligations as if the district had not been abolished. The municipality may combine the district system or property with the municipality's similar system or property if:

(1) the municipality has no outstanding revenue bonds, warrants, or other obligations payable from and secured by a pledge of the net revenue of its own utility system or property; or

(2) the municipality:

(A) has outstanding obligations payable from and secured by a pledge of net revenues sufficient to meet the outstanding obligations; and

(B) those revenues have produced, during the five-year period before May 30, 1959, an annual surplus in an amount sufficient to meet the annual obligations for which the district revenues are pledged.

(j) If the municipality combines the systems or property as provided by Subsection (i), it shall levy on all property subject to taxation by the municipality an annual property tax at a rate that, when combined with other available municipal funds and revenues, is sufficient to pay the principal of and interest on the outstanding obligations.

(k) If all the area in the district becomes a part of the municipality, the municipality, unless the refunding authorized by Subsection (l) has been accomplished, shall separately operate the district and municipal systems and property and may not commingle revenue if the municipality has outstanding bonds, warrants, or other bonded obligations payable from and secured by a pledge of the net revenue of its own utility system or property and does not have an amount annually accruing to its surplus revenue fund that exceeds the amount of the fund pledged to the payment of outstanding municipal obligations and that is sufficient to meet the annual obligations for which the district revenues are pledged. The municipality shall perform the duties and other functions imposed by law or contract on the governing body of the district relating to the district's outstanding bonds, warrants, or other obligations and shall separately perform the duties and other functions relating to the bonds, warrants, and other obligations of the municipal system. The municipality may allocate overhead expenses between any two or more systems in direct proportion to the gross income of each system.

(l) The municipality may issue revenue refunding bonds in its own name for the purpose of refunding outstanding district revenue bonds, warrants, or other obligations, including unpaid accrued interest on them, that are assumed by the municipality under this section. The municipality may combine different issues of district and municipal revenue bonds, warrants, or other obligations into one series of revenue refunding bonds and may pledge the net revenues of the utility systems or property to the payment of the refunding bonds as the governing body considers proper. Except as otherwise provided by this section, Articles 1111-1118, Vernon's Texas Civil Statutes, apply to the revenue refunding bonds, but an election for the issuance of the bonds is not required. Refunding bonds must bear interest at the same rate or at a lower rate than that borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid. (V.A.C.S. Art. 1182c-1, Secs. 1, 2, 3, 4, 5, 6.)

Sec. 43.076. ABOLITION OF WATER-RELATED SPECIAL DISTRICT THAT BECOMES PART OF MORE THAN ONE MUNICIPALITY. (a) This section applies to a municipality that contains, as a result of the annexation by or the incorporation of the municipality, any part of the area in a water control and improvement district, fresh water supply district, or municipal utility district organized for the primary purpose of providing municipal functions such as the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer service, if:

(1) the balance of the area in the district is located in one or more other municipalities; or

(2) the district is not created by a special act of the legislature and the balance of the area is located in one or more other municipalities and in an unincorporated area.

(b) The municipality succeeds to the powers, duties, assets, and obligations of the district as provided by this section. This section does not prohibit the municipality from continuing to operate utility facilities in the district that are owned and operated by the municipality on the date the part of the district area becomes a part of the municipality.

(c) If the district is located wholly in two or more municipalities, the district may be abolished by agreement among the district and the municipalities in which the district is located. Subject to Subsection (f), the agreement must provide for the distribution among the municipalities of the property and other assets of the district and for the pro rata assumption by the municipalities of all the debts, liabilities, and obligations of the district. The assumption by each municipality must be based on the ratio that the value of the property and other assets distributed to that municipality bears to the total value of all the property and other assets of the district. The determination of value may be made on an original cost basis, a reproduction cost basis, a fair market value basis, or by any other valuation method agreed on by the parties that reasonably reflects the value of the property and other assets, debts, liabilities, and obligations of the district. The agreement must specify the date on which the district is abolished.

(d) If the district is located wholly in two or more municipalities and in unincorporated area, the district may be abolished by agreement among the district and all of the municipalities in which parts of the district are located. The abolition agreement must provide for the distribution of assets and liabilities as provided by Subsection (c). The agreement must also provide for the distribution among one or more of the municipalities of the pro rata assets and liabilities located in the unincorporated area and must provide for service to customers in unincorporated areas in the service area of the abolished district. The municipality that provides the service in the unincorporated area may charge its usual and customary fees and assessments to the customers in that area.

(e) An agreement made under Subsection (c) or (d) must be approved by an ordinance adopted by the governing body of each municipality and by an order or resolution adopted by the governing board of the district before the date specified in the agreement for the abolition, distribution, and assumption.

(f) If the abolished district has outstanding bonds, warrants, or other obligations payable in whole or in part from the net revenue from the operation of the district utility system or property, the affected municipalities shall take over and operate the system or property through a board of trustees as provided by this section. The municipalities shall apply the net revenue from the operation of the system or property to the payment of outstanding revenue bonds, warrants, or other obligations as if the district had not been abolished. The system or property shall be operated in that manner until all the revenue bonds, warrants, or obligations are retired in full by payment or by the refunding of the bonds, warrants, or other obligations into municipal obligations. The board of trustees must be composed of not more than five members appointed by the governing bodies of the municipalities. The trustees are appointed for the terms and shall perform the duties as provided by the agreement made under Subsection (c) or (d). The board also shall perform the duties and other functions that are imposed by law or by contract on the abolished district and its governing board and that relate to the outstanding revenue bonds. The board shall charge and collect sufficient rates for the services of the system or property and shall apply the revenue to comply with each covenant or agreement contained in the proceedings relating to the revenue bonds, warrants, or other obligations with respect to the payment of principal and interest and the maintenance of reserves and other funds. When all the revenue bonds, warrants, and other obligations are retired in full, the property and other assets of the district shall be distributed among the municipalities as provided by Subsection (c) or (d). On the distribution, the board is abolished.

(g) When the pro rata share of any district bonds, warrants, or other obligations payable in whole or in part from property taxes has been assumed by the municipality, the governing body of the municipality shall levy and collect taxes on all taxable property in the municipality to pay the principal of and interest on its share as the principal and interest become due and payable.

(h) The municipality may issue general obligation refunding bonds in its own name to refund in whole or in part its pro rata share of any outstanding district bonds, warrants, or other obligations, including unpaid earned interest on them, that are assumed by the municipality and that are payable in whole or in part from property taxes. The refunding bonds must be issued in the manner provided by the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes), except that a notice of the intention to issue the refunding bonds is not required and a right of referendum does not exist. Refunding bonds must bear interest at the same rate or at a lower rate than that borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

(i) The municipality may issue revenue refunding bonds or general obligation refunding bonds in its own name to refund in whole or in part its pro rata share of any outstanding district bonds, warrants, or other obligations, including unpaid earned interest on them, that are assumed by the municipality and that are payable solely from net revenues. The municipality may combine the different issues or the bonds of different issues of both district and municipal revenue bonds, warrants, or other obligations into one or more series of revenue refunding bonds. The municipality may pledge the net revenues of the district utility system or property to the payment of those bonds, warrants, or other obligations. The municipality may also combine the different issues or the bonds of the different issues into one or more series of general obligation refunding bonds. An originally issued municipal revenue bond may not be refunded into municipal general obligation refunding bonds. Except as otherwise provided by this section, Articles 1111-1118, Vernon's Texas Civil Statutes, apply to the revenue refunding bonds, but an election for the issuance of the bonds is not required. In the issuance of revenue refunding bonds, the municipality has the benefits of and may exercise the authority granted under Chapter 541, Acts of the 51st Legislature, Regular Session, 1949 (Article 1118n-5, Vernon's Texas Civil Statutes). The provisions of that Act relating to outstanding revenue bonds apply to outstanding revenue bonds assumed by municipalities under this section. General obligation refunding bonds must be issued in the manner provided by the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes), except that a notice of the intention to issue the bonds is not required and a right of referendum does not exist. The revenue refunding bonds and the general obligation refunding bonds must bear interest at the same rate or at a lower rate than that borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid. (V.A.C.S. Art. 1182c-5, Secs. 1, 2, 3, 4, 5, 6.)

Sec. 43.077. ABOLITION OF CERTAIN CONSERVATION AND RECLAMATION DISTRICTS THAT BECOME PART OF MORE THAN ONE MUNICIPALITY. (a) Except as provided by Section 43.078, a conservation and reclamation district that is located wholly in more than one municipality, but that on April 1, 1971, was not so located, is abolished on the 91st day after the date all of the district is included in the municipalities if the district:

- (1) was created or exists under Article XVI, Section 59, of the Texas Constitution;
- (2) provides or has provided a fresh water supply, sanitary sewer services, and drainage services; and
- (3) was not, on April 1, 1971, a party to a contract providing for a federal grant for research and development under 33 U.S.C.A. Sections 1155(a)(2) and 1155(d).

(b) The district's physical assets, including property and facilities, belong on the date of distribution to the municipality in which the assets are located on the date of distribution. The municipalities assume the intangible assets, bonded indebtedness, liabilities, obligations, and other debts of the district. The amount of those items assumed by each municipality is determined by multiplying the total amount of the items by a fraction. The numerator of the fraction is the actual cost of the acquisition or construction of the physical assets, including property and facilities, distributed to the municipality, and the denominator of the fraction is the total actual cost of the acquisition or construction of all the physical assets, including property and facilities, of the district. Operating expenses during construction, interest during construction, organizational

expenses, engineering fees, legal fees, fiscal fees, and other fees and expenses may not be considered in determining the actual cost of the acquisition or construction of a physical asset.

(c) Each municipality shall perform the duties and other functions imposed by law or contract on the abolished district and its governing body in regard to any outstanding district bonds, warrants, or other obligations payable in whole or in part from the revenues from the operation of the district's assets, including property and facilities. Each municipality may allocate maintenance and operating expenses between two or more similar assets owned and operated by the municipality in direct proportion to the gross income of each.

(d) The physical assets, including property and facilities, that serve areas in more than one municipality shall continue to serve those areas. The municipality in which those assets are located shall operate and maintain them and may assess reasonable maintenance and operation charges to the other municipalities served by the assets.

(e) Subsections (g)–(i) of Section 43.076 apply to a municipality covered by this section to the same extent to which they apply to a municipality covered by that section. (V.A.C.S. Art. 1182c-5, Sec. 2A(1).)

Sec. 43.078. ALTERNATE METHOD OF ABOLITION OF CONSERVATION AND RECLAMATION DISTRICT THAT BECOMES PART OF MORE THAN ONE MUNICIPALITY. (a) A conservation and reclamation district described by Section 43.077(a) may, instead of being abolished under that section, be abolished by an agreement among all the municipalities in which the district is located. Approval of the agreement by the district is not required. The agreement may specify a date for the abolition of the district that is within 90 days after the date all of the district is included in the municipalities.

(b) The agreement may provide a method by which the municipalities:

- (1) take over the district's assets, including property and facilities; and
- (2) assume the district's bonded indebtedness, liabilities, obligations, and other debts.

(c) The agreement may describe the physical assets, including property and facilities, of the district that serve areas in more than one municipality and may provide a method by which the assets shall be operated and maintained. The agreement may contain other provisions that are necessary or proper to the abolition of the district, the distribution of the assets, and the assumption of the bonded indebtedness, liabilities, obligations, and other debts. The agreement may bind the parties for a period not to exceed 50 years regardless of any conflicting municipal charter provision.

(d) Subsections (g)–(i) of Section 43.076 apply to the municipalities covered by this section to the same extent to which they apply to a municipality covered by that section. (V.A.C.S. Art. 1182c-5, Sec. 2A(2).)

Sec. 43.079. CONSENT REQUIREMENT FOR ANNEXATION OF AREA IN CERTAIN CONSERVATION AND RECLAMATION DISTRICTS. A municipality that has annexed area in the district described by Section 43.077(a) is not required to obtain the consent of any municipality to annex additional area located wholly in the district other than the consent of the other municipalities that have annexed area in the district and have extraterritorial jurisdiction over the area proposed to be annexed. (V.A.C.S. Art. 1182c-5, Sec. 2A(3).)

Sec. 43.080. MUNICIPAL BONDS USED TO CARRY OUT PURPOSES OF ABOLISHED CONSERVATION AND RECLAMATION DISTRICT. (a) This section applies only to each municipality that under any other law, including Section 43.075, abolishes a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, including a water control and improvement district, fresh water supply district, or municipal utility district.

(b) If, before its abolition, the district voted to issue bonds to provide waterworks, sanitary sewer facilities, or drainage facilities and if some or all of the bonds were not issued, sold, and delivered before the abolition, the governing body of the municipality may issue and sell municipal bonds in an amount not to exceed the amount of the unissued district bonds to carry out the purposes for which the district bonds were voted.

(c) The bonds must be authorized by ordinance of the governing body of the municipality. The ordinance must provide for the levy of taxes on all taxable property in the municipality to pay the principal of and interest on the bonds when due. The bonds must be sold at not less than par value and accrued interest, and must mature, bear interest, and be subject to approval by the attorney general and to registration by the comptroller of public accounts as provided by law for other general obligation bonds of the municipality.

(d) A bond that is approved, registered, and sold as provided by this section is incontestable.

(e) This section repeals a municipal charter provision to the extent of a conflict with this section. This section does not affect the authority of a municipality to issue bonds for other purposes. (V.A.C.S. Art. 1182c-4, Secs. 1, 2 (part).)

Sec. 43.081. CONTINUATION OF CERTAIN MUNICIPAL WATER BOARDS ON ANNEXATION OF WATER CONTROL AND IMPROVEMENT DISTRICT. (a) A municipal water board that was created by Section 6, Chapter 134, Acts of the 52nd Legislature, Regular Session, 1951, and that continues to exist to preserve a vested right created under that law, remains in existence with full power after the municipality annexes all the area of the water control and improvement district whose functions the municipality assumed and delegated to the water board, so long as the land located in the board's jurisdiction is used for farming, ranching, or orchard purposes.

(b) The municipal water board shall select and designate one or more depositories for the proceeds of the maintenance and water charges and other charges levied by the water control and improvement district and for any other income or other funds of the district. The water board may select a depository regardless of the fact that one or more members of the board are members of the board of directors or are stockholders of the depository.

(c) The funds of the water control and improvement district may be kept in one or more separate accounts in the depository if the funds deposited in each separate account are to be used for a different designated purpose from the funds deposited in any other separate account. The funds deposited in the depository must be insured by an official agency of the United States and must be at least as well insured and protected as funds deposited in the official municipal depository of the municipality. (V.A.C.S. Art. 1182c-1, Sec. 2b.)

[Sections 43.082–43.100 reserved for expansion]

SUBCHAPTER E. ANNEXATION PROVISIONS RELATING TO RESERVOIRS, AIRPORTS, STREETS, AND CERTAIN OTHER AREAS

Sec. 43.101. ANNEXATION OF MUNICIPALLY OWNED RESERVOIR BY GENERAL-LAW MUNICIPALITY. (a) A general-law municipality may annex:

(1) a reservoir owned by the municipality and used to supply water to the municipality;

(2) any land contiguous to the reservoir and subject to an easement for flood control purposes in favor of the municipality; and

(3) the right-of-way of any public road or highway connecting the reservoir to the municipality by the most direct route.

(b) The municipality may annex the area if:

(1) none of the area is more than five miles from the municipality's boundaries;

(2) none of the area is in another municipality's extraterritorial jurisdiction; and

(3) the area, excluding road or highway right-of-way, is less than 600 acres.

(c) The area may be annexed without the consent of the owners or residents of the area.

(d) The municipality may annex the area even if part of the area is outside the municipality's extraterritorial jurisdiction or is narrower than 500 feet. Section 43.055, which relates to the amount of area a municipality may annex in a calendar year, does not apply to the annexation. (V.A.C.S. Art. 970a, Sec. 7a.)

Sec. 43.102. ANNEXATION OF MUNICIPALLY OWNED AIRPORT. (a) A municipality may annex:

- (1) an airport owned by the municipality; and
 - (2) the right-of-way of any public road or highway connecting the airport to the municipality by the most direct route.
- (b) The municipality may annex the area if:
- (1) none of the area is more than eight miles from the municipality's boundaries; and
 - (2) each municipality in whose extraterritorial jurisdiction the airport is located agrees to the annexation.
- (c) The area may be annexed without the consent of the owners or residents of the area.
- (d) The municipality may annex the area even if the area is outside the municipality's extraterritorial jurisdiction, is in another municipality's extraterritorial jurisdiction, or is narrower than 500 feet. Section 43.055, which relates to the amount of area a municipality may annex in a calendar year, does not apply to the annexation.
- (e) The annexation under this section of area outside the extraterritorial jurisdiction of the annexing municipality does not expand the extraterritorial jurisdiction of the municipality. (V.A.C.S. Art. 970a, Sec. 7b.)

Sec. 43.103. ANNEXATION OF STREETS BY GENERAL-LAW MUNICIPALITY WITH POPULATION OF 1,245 TO 1,260; 4,350 TO 4,374; OR 17,850 TO 17,900. (a) This section applies only to a general-law municipality with a population of:

- (1) 1,245 to 1,260;
- (2) 4,350 to 4,374; or
- (3) 17,850 to 17,900.

(b) The governing body of the municipality by ordinance may annex a street, highway, or alley adjacent to the municipality. Before the ordinance is adopted, publication must be made in the manner provided by Section 52.011. (V.A.C.S. Arts. 974f, 974f-1, 974f-2.)

Sec. 43.104. ANNEXATION OF STREETS BY MUNICIPALITY OF WICKETT. The municipality of Wickett by ordinance may annex a street, highway, or alley adjacent to the municipality. On or before the 10th day before the date the ordinance is adopted, the municipality must publish notice of the proposed annexation in a newspaper of general circulation in the municipality. The notice must generally describe the street, highway, or alley to be annexed. (V.A.C.S. Art. 974f-3.)

[Sections 43.105–43.120 reserved for expansion]

SUBCHAPTER F. LIMITED PURPOSE ANNEXATION ALONG NAVIGABLE STREAM

Sec. 43.121. LIMITED PURPOSE ANNEXATION ALONG NAVIGABLE STREAM. (a) The governing body of a special-law municipality located along or on a navigable stream may extend the boundaries of the municipality to include the area designated by Subsection (b) only to:

- (1) improve navigation on the stream by the United States, the municipality, or a navigation or other improvement district; and
- (2) establish and maintain wharves, docks, railway terminals, side tracks, warehouses, or other facilities or aids relating to navigation or wharves.

(b) The municipality by ordinance may extend the boundaries to include an area composed of the navigable stream and the land on each side of the stream. The area may not exceed 2,500 feet in width on either side of the stream as measured from the thread of the stream and may not exceed 20 miles in length as measured in a direct line from the ordinary municipal boundaries, either above or below the boundaries, or both. Consequently, the area subject to the boundary extension is a strip 5,000 feet wide and 20 miles in length, or as much of that strip as the governing body considers advisable to add to the municipality. The boundaries are extended on the adoption of the ordinance.

(c) The governing body may acquire land in the added area by purchase, condemnation, or gift. If condemnation is used, the municipality shall follow the condemnation procedure applying to the condemnation of land by the municipality for the purchase of streets.

(d) This section does not authorize the municipality to extend its boundaries to include area that is part of or belongs to another municipality. (V.A.C.S. Arts. 1183, 1184, 1185 (part), 1187.)

Sec. 43.122. **TAXATION PROHIBITED.** A municipality may not tax the property over which the boundaries are extended under this subchapter unless the property is within the general municipal boundaries. (V.A.C.S. Art. 1185 (part).)

Sec. 43.123. **REGULATION; CRIMINAL PENALTIES.** (a) After the adoption of the ordinance extending the municipal boundaries, the municipality may fully regulate navigation, wharfage, including wharfage rates, and all facilities, conveniences, and aids to navigation or wharfage.

(b) The municipality may adopt ordinances, including those imposing criminal penalties, and may otherwise police navigation on the stream and the use of the wharves or other facilities and aids to navigation or wharfage. (V.A.C.S. Art. 1186.)

Sec. 43.124. **INDUSTRIAL DISTRICT.** (a) The municipality may designate all or part of the added area as an industrial district, as the term is customarily used, and may treat the designated area in a manner considered by the governing body to be in the best interest of the municipality.

(b) The governing body may make written contracts or agreements with the owners of land in the industrial district, to guarantee the continuation of the limited purpose annexation status of the district and its immunity from general purpose annexation for a period not to exceed 10 years. The contract or agreement may contain other terms considered appropriate by the parties. The governing body and landowners may renew or extend the contract for successive periods not to exceed 10 years each. (V.A.C.S. Art. 1187-1.)

[Sections 43.125–43.140 reserved for expansion]

SUBCHAPTER G. DISANNEXATION

Sec. 43.141. **DISANNEXATION FOR FAILURE TO PROVIDE SERVICES.** (a) A majority of the qualified voters of an annexed area may petition the governing body of the municipality to disannex the area if the municipality fails or refuses to provide services or to cause services to be provided to the area within the period specified by Section 43.056 or by the service plan prepared for the area under that section.

(b) If the governing body fails or refuses to disannex the area within 60 days after the date of the receipt of the petition, any one or more of the signers of the petition may bring a cause of action in a district court of the county in which the area is principally located to request that the area be disannexed. On the filing of an answer by the governing body, and on application of either party, the case shall be advanced and heard without further delay in accordance with the Texas Rules of Civil Procedure. The district court shall enter an order disannexing the area if the court finds that a valid petition was filed with the municipality and that the municipality failed to perform its obligations in accordance with the service plan or failed to perform in good faith.

(c) If the area is disannexed under this section, it may not be annexed again within five years after the date of the disannexation. If it is reannexed within seven years after the date of the disannexation, a service plan for the area must be implemented not later than one year after the date of the reannexation.

(d) The petition for disannexation must:

- (1) be written;
- (2) request the disannexation;
- (3) be signed in ink or indelible pencil by the appropriate voters;

(4) be signed by each voter as that person's name appears on the most recent official list of registered voters;

(5) contain a note made by each voter stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;

(6) describe the area to be disannexed and have a plat or other likeness of the area attached; and

(7) be presented to the secretary of the municipality.

(e) The signatures to the petition need not be appended to one paper.

(f) Before the petition is circulated among the voters, notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the annexed area and by publishing a copy of the petition once in a newspaper of general circulation serving the area before the 15th day before the date the petition is first circulated. Proof of the posting and publication must be made by attaching to the petition presented to the secretary:

(1) the sworn affidavit of any voter who signed the petition, stating the places and dates of the posting; and

(2) the sworn affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication. (V.A.C.S. Art. 970a, Sec. 10, Subsecs. F (part), G, H.)

Sec. 43.142. **DISANNEXTION ACCORDING TO MUNICIPAL CHARTER IN HOME-RULE MUNICIPALITY.** A home-rule municipality may disannex an area in the municipality according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by this chapter. (V.A.C.S. Art. 1175, Subdiv. 2 (part).)

Sec. 43.143. **DISANNEXTION BY PETITION AND ELECTION IN GENERAL-LAW MUNICIPALITY.** (a) When at least 50 qualified voters of an area located in a general-law municipality sign and present a petition to the mayor of the municipality that describes the area by metes and bounds and requests that the area be declared no longer part of the municipality, the mayor shall order an election on the question in the municipality. The election shall be held on the first uniform election date prescribed by Chapter 41, Election Code, that occurs after the date on which the petition is filed and that affords enough time to hold the election in the manner required by law.

(b) When a majority of the votes received in the election favor discontinuing the area as part of the municipality, the mayor shall declare that the area is no longer a part of the municipality and shall enter an order to that effect in the minutes or records of the governing body of the municipality. The area ceases to be a part of the municipality on the date of the order. However, the area may not be discontinued as part of the municipality if the discontinuation would result in the municipality having less area than one square mile or one mile in diameter around the center of the original municipal boundaries.

(c) If the area withdraws from a municipality as provided by this section and if, at the time of the withdrawal, the municipality owes any debts, by bond or otherwise, the area is not released from its pro rata share of that indebtedness. The governing body shall continue to levy a property tax each year on the property in the area at the same rate that is levied on other property in the municipality until the taxes collected from the area equal its pro rata share of the indebtedness. Those taxes may be charged only with the cost of levying and collecting the taxes, and the taxes shall be applied exclusively to the payment of the pro rata share of the indebtedness. This subsection does not prevent the inhabitants of the area from paying in full at any time their pro rata share of the indebtedness. (V.A.C.S. Arts. 975, 976.)

Sec. 43.144. **DISANNEXTION OF SPARSELY POPULATED AREA IN GENERAL-LAW MUNICIPALITY.** (a) The mayor and governing body of a general-law municipality by ordinance may discontinue an area as a part of the municipality if:

(1) the area consists of at least 10 acres contiguous to the municipality; and

(2) the area:

(A) is uninhabited; or

(B) contains fewer than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre.

(b) On adoption of the ordinance, the mayor shall enter in the minutes or records of the governing body an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order. (V.A.C.S. Art. 973.)

Sec. 43.145. DISANNEXATION OF UNIMPROVED AREA OR NONTAXABLE AREA IN CERTAIN MUNICIPALITIES. (a) The governing body of a municipality by ordinance may discontinue an area as a part of the municipality if:

(1) the municipality has a population of 4,000 or more and is located in a county with a population of more than 205,000, and the area is composed of at least three contiguous acres that are unimproved and adjoining the municipal boundaries; or

(2) the municipality has a population of 596,000 or more, and the area is an improved area that is not taxable by the municipality and is contiguous to the municipal boundary.

(b) On adoption of the ordinance, the governing body shall enter in the minutes or records of the municipality an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order. (V.A.C.S. Art. 1266.)

[Sections 43.146–43.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 43.901. CIRCUMSTANCES IN WHICH CONSENT TO BOUNDARIES OR ANNEXATION IS PRESUMED. A municipal ordinance defining boundaries of or annexing area to a municipality is conclusively presumed to have been adopted with the consent of all appropriate persons if:

(1) two years have expired after the date of the adoption of the ordinance; and

(2) an action to annul or review the adoption of the ordinance has not been initiated in that two-year period. (V.A.C.S. Art. 974c–4, Sec. 2.)

Sec. 43.902. ANNEXATION, EXTRATERRITORIAL JURISDICTION, AND EMINENT DOMAIN ON INACCESSIBLE GULF ISLAND. (a) Land on an island bordering the Gulf of Mexico that is not accessible by a public road or common carrier ferry facility may not be annexed by a municipality without the consent of the owners of the land.

(b) The extraterritorial jurisdiction of a municipality does not include land on the island unless the owners of the land consent.

(c) A municipality may not take property on the island through eminent domain. (V.A.C.S. Art. 970a, Sec. 7, Subsec. B–1(b).)

Sec. 43.903. EFFECT OF ANNEXATION ON RAILROAD SWITCHING LIMITS OR RATES. An annexation by a municipality does not change or otherwise affect the switching limits of a railroad or any rates of a railroad. (V.A.C.S. Art. 970a, Sec. 7, Subsec. E.)

[Chapters 44–50 reserved for expansion]

SUBTITLE D. GENERAL POWERS OF MUNICIPALITIES

CHAPTER 51. GENERAL POWERS OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51.001. ORDINANCE, RULE, OR REGULATION NECESSARY TO CARRY OUT OTHER POWERS

[Sections 51.002–51.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS APPLICABLE TO TYPE A
GENERAL-LAW MUNICIPALITY

- Sec. 51.011. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY
- Sec. 51.012. ORDINANCES AND REGULATIONS
- Sec. 51.013. AUTHORITY RELATING TO LAWSUITS
- Sec. 51.014. AUTHORITY TO CONTRACT
- Sec. 51.015. AUTHORITY TO HOLD, PURCHASE, LEASE, OR CONVEY PROPERTY
- Sec. 51.016. ADOPTION AND USE OF SEAL
- Sec. 51.017. CONTINUATION OF POWERS, DUTIES, PENALTIES, AND SUITS AFTER CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY
- Sec. 51.018. OWNERSHIP AND SALE OF PROPERTY AFTER CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY

[Sections 51.019–51.030 reserved for expansion]

SUBCHAPTER C. PROVISIONS APPLICABLE TO TYPE B GENERAL-LAW
MUNICIPALITY

- Sec. 51.031. SUBCHAPTER APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY
- Sec. 51.032. ORDINANCES AND BYLAWS
- Sec. 51.033. AUTHORITY RELATING TO LAWSUITS
- Sec. 51.034. AUTHORITY TO HOLD AND DISPOSE OF PROPERTY

[Sections 51.035–51.050 reserved for expansion]

SUBCHAPTER D. PROVISIONS APPLICABLE TO TYPE C
GENERAL-LAW MUNICIPALITY

- Sec. 51.051. GENERAL POWERS OF TYPE C GENERAL-LAW MUNICIPALITY
- Sec. 51.052. ALTERNATIVE GENERAL POWERS FOR CERTAIN TYPE C GENERAL-LAW MUNICIPALITIES

[Sections 51.053–51.070 reserved for expansion]

SUBCHAPTER E. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITY

- Sec. 51.071. SUBCHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY
- Sec. 51.072. AUTHORITY OF LOCAL SELF-GOVERNMENT
- Sec. 51.073. ADOPTION OF CHARTER DOES NOT AFFECT RIGHTS AND CLAIMS
- Sec. 51.074. PERPETUAL SUCCESSION
- Sec. 51.075. AUTHORITY RELATING TO LAWSUITS
- Sec. 51.076. AUTHORITY RELATING TO PROPERTY
- Sec. 51.077. LIABILITY FOR DAMAGES
- Sec. 51.078. PRESERVATION OF CERTAIN POWERS GRANTED BEFORE 1913

SUBTITLE D. GENERAL POWERS OF MUNICIPALITIES

CHAPTER 51. GENERAL POWERS OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51.001. ORDINANCE, RULE, OR REGULATION NECESSARY TO CARRY OUT OTHER POWERS. The governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that:

- (1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and
- (2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality. (V.A.C.S. Art. 1011 (part).)

[Sections 51.002–51.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 51.011. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type A general-law municipality. (V.A.C.S. Arts. 962 (part), 963 (part), 968 (part), 969 (part).)

Sec. 51.012. ORDINANCES AND REGULATIONS. The municipality may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic. (V.A.C.S. Arts. 962 (part), 968 (part).)

Sec. 51.013. AUTHORITY RELATING TO LAWSUITS. The municipality may sue and be sued, implead and be impleaded, and answer and be answered in any matter in any court or other place. (V.A.C.S. Arts. 962 (part), 968 (part).)

Sec. 51.014. AUTHORITY TO CONTRACT. The municipality may contract with other persons. (V.A.C.S. Arts. 962 (part), 968 (part).)

Sec. 51.015. AUTHORITY TO HOLD, PURCHASE, LEASE, OR CONVEY PROPERTY. (a) To carry out a municipal purpose, the municipality may take, hold, purchase, lease, grant, or convey property located in or outside the municipality.

(b) The governing body of the municipality may manage and control the property belonging to the municipality. (V.A.C.S. Art. 962 (part); Art. 968 (part); Art. 1015, Subdiv. 40 (part).)

Sec. 51.016. ADOPTION AND USE OF SEAL. The municipality may adopt a corporate seal for the use of the municipality. The municipality may change and renew the seal. (V.A.C.S. Arts. 962 (part), 968 (part).)

Sec. 51.017. CONTINUATION OF POWERS, DUTIES, PENALTIES, AND SUITS AFTER CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. (a) This section applies only to a Type A general-law municipality that:

- (1) changed to that type under Subchapter B of Chapter 6; or
- (2) changed its municipal type under the predecessor statutes to Subchapter B of Chapter 6.

(b) The municipality continues to have the powers, rights, immunities, privileges, and franchises possessed at the time the municipality changed to a Type A general-law municipality and continues to be subject to the duties it had at the time of the change.

(c) A right, action, fine, penalty, or forfeiture that, under the laws in effect before the municipality changed to a Type A general-law municipality, accrued in favor of the municipality in a suit or in any other manner continues to be vested in and shall be prosecuted by the municipality after the change.

(d) A suit pending against the municipality before the municipality changed to a Type A general-law municipality is not affected by the change. After the change, the municipality shall, as appropriate, prosecute or defend the suit. (V.A.C.S. Arts. 962 (part), 963 (part), 968 (part).)

Sec. 51.018. OWNERSHIP AND SALE OF PROPERTY AFTER CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. (a) This section applies only to a Type A general-law municipality described by Section 51.017(a).

(b) The property belonging to the municipality before it changed to a Type A general-law municipality continues to belong to the municipality after the change.

(c) If, before changing to a Type A general-law municipality, the municipality was incorporated under a law of the Republic of Texas, the governing body of the municipality may sell the property and appropriate the proceeds of the sale for the acquisition, construction, maintenance, or operation of a water, sewer, gas, or electric light or power system in or outside the municipality or for any other public improvement in the municipality. (V.A.C.S. Arts. 963 (part), 969.)

[Sections 51.019–51.030 reserved for expansion]

SUBCHAPTER C. PROVISIONS APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY

Sec. 51.031. SUBCHAPTER APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type B general-law municipality. (New.)

Sec. 51.032. ORDINANCES AND BYLAWS. (a) The governing body of the municipality may adopt an ordinance or bylaw, not inconsistent with state law, that the governing body considers proper for the government of the municipal corporation.

(b) The governing body may take any other action necessary to carry out a provision of this code applicable to the municipality. (V.A.C.S. Arts. 1145 (part), 1146 (part).)

Sec. 51.033. AUTHORITY RELATING TO LAWSUITS. The municipality may sue and be sued and may plead and be impleaded. (V.A.C.S. Art. 1140 (part).)

Sec. 51.034. AUTHORITY TO HOLD AND DISPOSE OF PROPERTY. The municipality may hold and dispose of:

- (1) personal property; and
- (2) real property located within the municipal boundaries. (V.A.C.S. Art. 1140 (part).)

[Sections 51.035–51.050 reserved for expansion]

SUBCHAPTER D. PROVISIONS APPLICABLE TO TYPE C GENERAL-LAW MUNICIPALITY

Sec. 51.051. GENERAL POWERS OF TYPE C GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type C general-law municipality with 501 to 4,999 inhabitants has the same authority and is subject to the same duties as a Type A general-law municipality unless the authority or duties conflict with a provision of this code relating specifically to a Type C general-law municipality.

(b) The governing body of a Type C general-law municipality with 201 to 500 inhabitants has the same authority as a Class B general-law municipality unless the authority conflicts with a provision of this code relating specifically to a Type C general-law municipality. (V.A.C.S. Art. 1163.)

Sec. 51.052. ALTERNATIVE GENERAL POWERS FOR CERTAIN TYPE C GENERAL-LAW MUNICIPALITIES. (a) A municipality that is incorporated as a Type C general-law municipality and that has \$500,000 or more of assessed valuation for taxable purposes, according to its most recently approved tax rolls, may adopt the powers of a Type A general-law municipality regardless of any limitation prescribed by Section 51.051. On adoption of the powers, the municipality has the same rights, powers, privileges, immunities, and franchises as a Type A general-law municipality.

(b) For a municipality to adopt the powers:

- (1) at least two-thirds of the governing body of the municipality at a regular meeting must vote to make the change and the vote must be recorded in the journal of the governing body's proceedings;

- (2) a copy of the record of the proceedings must be signed by the mayor;
- (3) a copy of the record of the proceedings must be attested by the municipality's clerk or secretary under the corporate seal; and
- (4) a copy of the record of the proceedings must be filed and recorded in the office of the county clerk of the county in which the municipality is located. (V.A.C.S. Art. 961 (part); Art. 961b-1, Sec. 1.)

[Sections 51.053-51.070 reserved for expansion]

SUBCHAPTER E. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITY

Sec. 51.071. SUBCHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY. This subchapter applies only to a home-rule municipality. (New.)

Sec. 51.072. AUTHORITY OF LOCAL SELF-GOVERNMENT. (a) The municipality has full power of local self-government.

(b) The grant of powers to the municipality by this code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government. (V.A.C.S. Arts. 1175 (part), 1176.)

Sec. 51.073. ADOPTION OF CHARTER DOES NOT AFFECT RIGHTS AND CLAIMS. The adoption or amendment of the municipality's charter does not affect any previously existing property, action, right of action, claim, or demand involving the municipality. A right of action, claim, or demand may be asserted as fully as though the adoption or amendment of the charter had not occurred. (V.A.C.S. Art. 1178 (part).)

Sec. 51.074. PERPETUAL SUCCESSION. The municipality may act in perpetual succession as a body politic. (V.A.C.S. Art. 1175, Subdiv. 3 (part).)

Sec. 51.075. AUTHORITY RELATING TO LAWSUITS. The municipality may plead and be impleaded in any court. (V.A.C.S. Art. 1175, Subdiv. 3 (part).)

Sec. 51.076. AUTHORITY RELATING TO PROPERTY. (a) The municipality may hold property, including any charitable or trust fund, that it receives by gift, deed, devise, or other manner.

(b) The municipality may provide that any property owned or held by the municipality is not subject to any kind of execution. (V.A.C.S. Art. 1175, Subdivs. 3 (part), 4.)

Sec. 51.077. LIABILITY FOR DAMAGES. The municipality may adopt rules, as it considers advisable, governing the municipality's liability for damages caused to a person or property. The municipality may provide for its exemption from liability. (V.A.C.S. Art. 1175, Subdiv. 6.)

Sec. 51.078. PRESERVATION OF CERTAIN POWERS GRANTED BEFORE 1913. Powers granted before July 1, 1913, to a municipality by general law or special law continue to be powers of the municipality after it adopts a home-rule charter if the powers are made a part of the charter. (V.A.C.S. Art. 1177 (part).)

CHAPTER 52. ADOPTION OF MUNICIPAL ORDINANCES

SUBCHAPTER A. GENERAL PROVISIONS APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITIES

Sec. 52.001. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 52.002. STYLE

Sec. 52.003. APPROVAL BY MAYOR AND RELATED CONDITIONS FOR ORDINANCE TO TAKE EFFECT

Sec. 52.004. OFFICIAL NEWSPAPER

[Sections 52.005–52.010 reserved for expansion]

SUBCHAPTER B. PUBLICATION OF ORDINANCES

- Sec. 52.011. TYPE A GENERAL-LAW MUNICIPALITY
 Sec. 52.012. TYPE B GENERAL-LAW MUNICIPALITY
 Sec. 52.013. HOME-RULE MUNICIPALITIES

CHAPTER 52. ADOPTION OF MUNICIPAL ORDINANCES

SUBCHAPTER A. GENERAL PROVISIONS APPLICABLE TO TYPE A
 GENERAL-LAW MUNICIPALITIES

Sec. 52.001. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type A general-law municipality. (New.)

Sec. 52.002. STYLE. (a) The style of an ordinance of the municipality must be: “Be it ordained by the city council of the city of (insert the name of municipality).”

(b) The style may be omitted when the ordinance is published in a book or pamphlet. (V.A.C.S. Art. 1012.)

Sec. 52.003. APPROVAL BY MAYOR AND RELATED CONDITIONS FOR ORDINANCE TO TAKE EFFECT. (a) Before an ordinance or resolution adopted by the governing body of the municipality may take effect, the ordinance or resolution must be placed in the office of the secretary of the municipality. The mayor shall sign the ordinances and resolutions that the mayor approves.

(b) If the mayor does not sign an ordinance or resolution before the fourth day after the date it is placed in the secretary’s office and does not return the ordinance or resolution under Subsection (c), the ordinance or resolution takes effect as provided by law.

(c) If the mayor returns an ordinance or resolution to the governing body with a statement of objections before the fourth day after the date the ordinance or resolution is placed in the secretary’s office, the governing body shall, on the return, reconsider the vote by which the ordinance or resolution was adopted. If a majority of the total number of members of the governing body, excluding the mayor, approve the ordinance or resolution on reconsideration and enter the votes in the journal of the governing body’s proceedings, the ordinance or resolution may take effect. (V.A.C.S. Art. 997.)

Sec. 52.004. OFFICIAL NEWSPAPER. (a) As soon as practicable after the beginning of each municipal year, the governing body of the municipality shall contract, as determined by ordinance or resolution, with a public newspaper of the municipality to be the municipality’s official newspaper until another newspaper is selected.

(b) The governing body shall publish in the municipality’s official newspaper each ordinance, notice, or other matter required by law or ordinance to be published. (V.A.C.S. Art. 1025.)

[Sections 52.005–52.010 reserved for expansion]

SUBCHAPTER B. PUBLICATION OF ORDINANCES

Sec. 52.011. TYPE A GENERAL-LAW MUNICIPALITY. (a) If a Type A general-law municipality adopts an ordinance that imposes a penalty, fine, or forfeiture, the ordinance, or a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance, shall be published in:

- (1) every issue of the official newspaper for 10 days; or
- (2) one issue of the newspaper if the official newspaper is a weekly paper.

(b) An affidavit by the printer or publisher of the official newspaper verifying the publication shall be filed in the office of the secretary of the municipality. In the courts of this state, the affidavit is prima facie evidence of the adoption of the ordinance and of the required publication.

(c) An ordinance required to be published by this section takes effect when the publication requirement is satisfied unless the ordinance provides otherwise. An ordinance that is not required to be published by this section takes effect when adopted unless the ordinance provides otherwise.

(d) If a Type A general-law municipality publishes its ordinances in pamphlet or book form, the publication in the official newspaper of an ordinance included in the pamphlet or book is not required if the ordinance was published previously in the official newspaper. A court shall admit without further proof an ordinance of a Type A general-law municipality that is published in pamphlet or book form as authorized by the governing body if the ordinance was published previously in the official newspaper. (V.A.C.S. Art. 1013.)

Sec. 52.012. TYPE B GENERAL-LAW MUNICIPALITY. (a) Before an ordinance or a bylaw of a Type B general-law municipality may be enforced, the ordinance or bylaw, or a caption that summarizes the purpose of the ordinance or bylaw and the penalty for violating the ordinance or bylaw must be posted in three public places in the municipality or published in a newspaper that is published in the municipality. If no newspaper is published in the municipality, the ordinance, bylaw, or summary may be published in a newspaper with general circulation in the municipality.

(b) Unless the publication is in a weekly newspaper, the governing body must post or publish the ordinance, bylaw, or summary for at least 10 days. If the publication is in a weekly newspaper, the governing body shall publish the ordinance, bylaw, or summary in one issue. (V.A.C.S. Art. 1152.)

Sec. 52.013. HOME-RULE MUNICIPALITIES. (a) The governing body of a home-rule municipality may publish a caption of an adopted ordinance that summarizes the purpose of the ordinance and any penalty for violating the ordinance in lieu of a requirement in the municipality's charter that the text of the ordinance be published.

(b) If the charter of a home-rule municipality does not provide for the method of publication of an ordinance, the full text of the ordinance or a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance may be published at least twice in the municipality's official newspaper. (V.A.C.S. Art. 1176b-1, Sec. 1.)

CHAPTER 53. CODE OF MUNICIPAL ORDINANCES

- Sec. 53.001. ADOPTION OF CODE
- Sec. 53.002. PUBLICATION OF ADOPTION ORDINANCE
- Sec. 53.003. SUBDIVISION OF CODE
- Sec. 53.004. CHANGE OR REPEAL OF ORDINANCE
- Sec. 53.005. EFFECT OF CODIFICATION
- Sec. 53.006. PRINTED CODE AS EVIDENCE

CHAPTER 53. CODE OF MUNICIPAL ORDINANCES

Sec. 53.001. ADOPTION OF CODE. (a) A municipality may adopt by ordinance a codification of its civil and criminal ordinances, together with appropriate penalties for the violation of the ordinances.

(b) On the adoption of the code, the secretary of the municipality shall record the code in the municipality's ordinance records.

(c) The code is effective on its adoption. (V.A.C.S. Art. 1145a (part); Art. 1176a, Secs. 1 (part), 3 (part), 4 (part).)

Sec. 53.002. PUBLICATION OF ADOPTION ORDINANCE. (a) Except as provided by Subsection (b), the ordinance adopting a code of municipal ordinances shall be published in the official publication of the municipality or in a newspaper published in the city or county as provided by law.

(b) If the municipality is a special-law municipality and its charter provides for the publication of both civil and criminal ordinances, the municipality shall publish the ordinance in compliance with its charter.

(c) It is not necessary to publish the code itself. (V.A.C.S. Art. 1176a, Sec. 4 (part).)

Sec. 53.003. **SUBDIVISION OF CODE.** A code of municipal ordinances may be subdivided into chapters, titles, articles, or sections at the discretion of the governing body of the municipality. (V.A.C.S. Art. 1176a, Sec. 6.)

Sec. 53.004. **CHANGE OR REPEAL OF ORDINANCE.** If a change in a municipality's form of government and designation of offices and officers necessitates the change or repeal of an ordinance or part of an ordinance being codified, the municipality may amend, omit, or repeal the ordinance in the codification to conform it to the municipality's present form of government without separately reenacting, repealing, or amending the source ordinance. (V.A.C.S. Art. 1176a, Sec. 2.)

Sec. 53.005. **EFFECT OF CODIFICATION.** (a) A municipal code of ordinances has the force and effect of an ordinance regularly adopted in accordance with law.

(b) The record of the code in the municipality's ordinance records is a record of the codified ordinances and establishes the content of those ordinances. (V.A.C.S. Art. 1145a (part); Art. 1176a, Secs. 1 (part), 3 (part).)

Sec. 53.006. **PRINTED CODE AS EVIDENCE.** (a) A municipality may have printed, under the direction of the governing body of the municipality, a copy of the code that is authenticated and approved by the mayor's signature and attested by the secretary of the municipality.

(b) In a court, the printed code is prima facie evidence of the existence and regular enactment of the ordinance adopting the code. A court shall admit the printed code in evidence without further proof. (V.A.C.S. Art. 1176a, Sec. 5.)

CHAPTER 54. ENFORCEMENT OF MUNICIPAL ORDINANCES

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 54.001. **GENERAL ENFORCEMENT AUTHORITY OF MUNICIPALITIES; PENALTY**
 Sec. 54.002. **IMPOSITION OF FINE IN TYPE B GENERAL-LAW MUNICIPALITY**
 Sec. 54.003. **REMISSION OF FINE BY TYPE A GENERAL-LAW MUNICIPALITY**
 Sec. 54.004. **PRESERVATION OF HEALTH, PROPERTY, GOOD GOVERNMENT, AND ORDER IN HOME-RULE MUNICIPALITY**

[Sections 54.005–54.010 reserved for expansion]

SUBCHAPTER B. HEALTH AND SAFETY ORDINANCES OF HOME-RULE MUNICIPALITY

- Sec. 54.011. **SUBCHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY**
 Sec. 54.012. **CIVIL ACTION**
 Sec. 54.013. **JURISDICTION; VENUE**
 Sec. 54.014. **PREFERENTIAL SETTING**
 Sec. 54.015. **PROCEDURE**
 Sec. 54.016. **INJUNCTION**
 Sec. 54.017. **CIVIL PENALTY**
 Sec. 54.018. **ACTION FOR REPAIR OR DEMOLITION OF STRUCTURE**
 Sec. 54.019. **IMPRISONMENT; CONTEMPT**

CHAPTER 54. ENFORCEMENT OF MUNICIPAL ORDINANCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 54.001. **GENERAL ENFORCEMENT AUTHORITY OF MUNICIPALITIES; PENALTY.** (a) The governing body of a municipality may enforce each rule, ordinance, or

police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation.

(b) A fine or penalty for the violation of a rule, ordinance, or police regulation may not exceed \$200. However, a fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, may not exceed \$1,000.

(c) This section applies to a municipality regardless of any contrary provision in a municipal chapter. (V.A.C.S. Art. 1011 (part).)

Sec. 54.002. IMPOSITION OF FINE IN TYPE B GENERAL-LAW MUNICIPALITY.

(a) The governing body of a Type B general-law municipality may prescribe the fine for the violation of a municipal bylaw or ordinance.

(b) If a defendant in a Type B general-law municipality demands a jury trial, the fine may be imposed only on the verdict of a jury. (V.A.C.S. Art. 1146 (part).)

Sec. 54.003. REMISSION OF FINE BY TYPE A GENERAL-LAW MUNICIPALITY.

On a two-thirds vote of the members present, the governing body of a Type A general-law municipality may remit a fine or a penalty, or a part of a fine or penalty, imposed or incurred under law or under an ordinance or resolution adopted in accordance with law. (V.A.C.S. Art. 1014.)

Sec. 54.004. PRESERVATION OF HEALTH, PROPERTY, GOOD GOVERNMENT, AND ORDER IN HOME-RULE MUNICIPALITY. A home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants. (V.A.C.S. Art. 1175, Subdiv. 34 (part).)

[Sections 54.005–54.010 reserved for expansion]

SUBCHAPTER B. HEALTH AND SAFETY ORDINANCES OF HOME-RULE MUNICIPALITY

Sec. 54.011. SUBCHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY. This subchapter applies only to a home-rule municipality. (V.A.C.S. Art. 1175f, Sec. 1.)

Sec. 54.012. CIVIL ACTION. The municipality may bring a civil action for the enforcement of an ordinance:

- (1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
- (2) relating to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (3) for zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme;
- (4) establishing criteria for land subdivision or construction of buildings, including provisions relating to street width and design, lot size, building width or elevation, setback requirements, or utility service specifications or requirements;
- (5) implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor;
- (6) relating to dangerously damaged or deteriorated structures or improvements; or
- (7) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents. (V.A.C.S. Art. 1175f, Sec. 2.)

Sec. 54.013. JURISDICTION; VENUE. Jurisdiction and venue of an action under this subchapter are in the district court or the county court at law of the county in which the municipality bringing the action is located. (V.A.C.S. Art. 1175f, Sec. 8(a).)

Sec. 54.014. **PREFERENTIAL SETTING.** If the municipality submits to the court a verified motion that includes facts that demonstrate that a delay will unreasonably endanger persons or property, the court shall give a preference to the action brought by the municipality when setting cases filed under this subchapter. (V.A.C.S. Art. 1175f, Sec. 8(b).)

Sec. 54.015. **PROCEDURE.** (a) The only allegations required to be pleaded in an action brought under this subchapter are:

- (1) the identification of the real property involved in the violation;
- (2) the relationship of the defendant to the real property or activity involved in the violation;
- (3) a citation to the applicable ordinance;
- (4) a description of the violation; and
- (5) a statement that this subchapter applies to the ordinance.

(b) The standard of proof is the same as for other suits for extraordinary relief. (V.A.C.S. Art. 1175f, Secs. 5(a), (b).)

Sec. 54.016. **INJUNCTION.** (a) On a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant, the municipality may obtain against the owner or owner's representative with control over the premises an injunction that:

- (1) prohibits specific conduct that violates the ordinance; and
- (2) requires specific conduct that is necessary for compliance with the ordinance.

(b) It is not necessary for the municipality to prove that another adequate remedy or penalty for a violation does not exist or to show that prosecution in a criminal action has occurred or has been attempted. (V.A.C.S. Art. 1175f, Secs. 3(a), (b) (part).)

Sec. 54.017. **CIVIL PENALTY.** (a) In a suit against the owner or the owner's representative with control over the premises, the municipality may recover a civil penalty if it proves that:

- (1) the defendant was actually notified of the provisions of the ordinance; and
- (2) after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

(b) A civil penalty under this section may not exceed \$1,000 a day for a violation of an ordinance. (V.A.C.S. Art. 1175f, Sec. 4.)

Sec. 54.018. **ACTION FOR REPAIR OR DEMOLITION OF STRUCTURE.** (a) The municipality may bring an action to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover removal costs.

(b) In an action under this section, the municipality may also bring a claim for civil penalties under Section 54.017.

(c) The municipality may file a notice of lis pendens in the office of the county clerk. If the municipality files the notice, a subsequent purchaser or mortgagee who acquires an interest in the property takes the property subject to the enforcement proceeding and subsequent orders of the court. (V.A.C.S. Art. 1175f, Sec. 6.)

Sec. 54.019. **IMPRISONMENT; CONTEMPT.** (a) A person is not subject to personal attachment or imprisonment for the failure to pay a civil penalty assessed under this subchapter.

(b) This subchapter does not affect the power of a court to imprison a person for contempt of valid court orders or the availability of remedies or procedures for the collection of a judgment assessing civil penalties. The remedies under Section 31.002, Civil Practice and Remedies Code, are preserved. (V.A.C.S. Art. 1175f, Sec. 7.)

[Chapters 55–60 reserved for expansion]

SUBTITLE E. CONSOLIDATION AND ABOLITION OF MUNICIPALITIES

CHAPTER 61. CONSOLIDATION OF MUNICIPALITIES

- Sec. 61.001. AUTHORITY TO CONSOLIDATE
- Sec. 61.002. CONSOLIDATION ELECTION
- Sec. 61.003. PETITIONS TO CONSOLIDATE; ELECTION ORDERS
- Sec. 61.004. SEQUENCE OF ELECTIONS; ELECTION DATES
- Sec. 61.005. CONDUCT OF ELECTION
- Sec. 61.006. APPROVAL AND REGISTRATION OF CONSOLIDATION
- Sec. 61.007. CERTIFICATION OF CONSOLIDATION
- Sec. 61.008. EFFECT OF CONSOLIDATION
- Sec. 61.009. MERGER OF CONSOLIDATED MUNICIPALITIES
- Sec. 61.010. INTERVAL BETWEEN ELECTIONS

SUBTITLE E. CONSOLIDATION AND ABOLITION OF MUNICIPALITIES

CHAPTER 61. CONSOLIDATION OF MUNICIPALITIES

Sec. 61.001. AUTHORITY TO CONSOLIDATE. Two or more contiguous municipalities in the same county may consolidate under one government in the manner provided by this chapter. (V.A.C.S. Art. 1188 (part).)

Sec. 61.002. CONSOLIDATION ELECTION. A consolidation of municipalities under this chapter must be approved at an election ordered and held for that purpose. (V.A.C.S. Art. 1188 (part).)

Sec. 61.003. PETITIONS TO CONSOLIDATE; ELECTION ORDERS. (a) If at least 100 qualified voters of each of two or more municipalities petition the governing bodies of their respective municipalities to order a consolidation election, the governing body of each municipality may order an election on the proposition in the sequence prescribed by Section 61.004. However, if a petition is signed by the number of qualified voters that equals 15 percent or more of the total vote cast at the most recent general election for municipal officials in a municipality, the governing body of the municipality shall order an election on the proposition, except as otherwise provided by this chapter.

(b) An election under this section shall be held at the municipality's regular polling places. (V.A.C.S. Art. 1189(a).)

Sec. 61.004. SEQUENCE OF ELECTIONS; ELECTION DATES. (a) The municipality having the smallest population among the municipalities voting on the consolidation issue shall hold the first consolidation election. The governing body of a municipality holding an election shall order the election within 45 days after the date the petition is filed.

(b) If a majority of the votes received in an election are in favor of consolidation, each larger municipality in turn, in inverse order of their size of population, may or shall, as provided by Section 61.003, order a consolidation election. The governing body of a municipality holding an election shall order the election within 45 days after the date the election returns from the next smaller municipality are canvassed.

(c) If a majority of the votes received in a consolidation election in any municipality are not in favor of consolidation, a larger municipality that has not held an election on the consolidation issue may not order a consolidation election.

(d) If an election contest is timely filed in a consolidation election, the governing body of each larger municipality that has not held its consolidation election may delay holding the election until the election contest is finally determined.

(e) A consolidation election shall be held on the first authorized uniform election date prescribed by the Election Code that occurs on or after the 30th day after the date the election is ordered. (V.A.C.S. Arts. 1189(b), (c), (d).)

Sec. 61.005. CONDUCT OF ELECTION. A consolidation election shall be conducted under the ordinances of the municipality holding the election and in conformity with the laws of this state. (V.A.C.S. Art. 1190 (part).)

Sec. 61.006. APPROVAL AND REGISTRATION OF CONSOLIDATION. (a) If a majority of the votes received in the consolidation election in each municipality favor consolidation, the election returns shall be recorded in the records of the respective municipalities.

(b) The consolidation is effective when the election returns are recorded. (V.A.C.S. Art. 1192 (part).)

Sec. 61.007. CERTIFICATION OF CONSOLIDATION. If a majority of the votes received in each municipality favor consolidation, as soon as practicable after the returns are made, the mayor or chief executive officer in each municipality shall certify to the secretary of state an authenticated copy of the returns under the municipality's seal showing the approval of the consolidation by the voters of the municipality. The secretary of state shall file the authenticated copy and record it in a separate book the secretary of state shall keep for the purpose. (V.A.C.S. Art. 1192 (part).)

Sec. 61.008. EFFECT OF CONSOLIDATION. In a consolidation under this chapter, the smaller municipalities:

- (1) adopt the charter, ordinances, and, unless otherwise provided at the time of the consolidation, the name of the largest municipality;
- (2) are included in the territory of the largest municipality; and
- (3) are subject to the laws and regulations of the largest municipality. (V.A.C.S. Arts. 1188 (part), 1191.)

Sec. 61.009. MERGER OF CONSOLIDATED MUNICIPALITIES. (a) After a consolidation is effective, the records, public property, money, credits, accounts, and all other assets of the smaller of the consolidated municipalities shall be turned over to the officers of the largest municipality, who shall remain in office for the remainder of their terms as the officials of the consolidated municipality.

(b) The offices of the smaller municipalities are abolished, and the persons holding the offices at the time the consolidation is effective are not entitled to receive further compensation.

(c) The consolidated municipality assumes all outstanding liabilities of the municipalities that are consolidated.

(d) If at the time a consolidation is effective a municipality has bond funds voted for public improvements that are not appropriated or subject to contract, the money shall be kept in a separate fund and used for public improvements in the territory for which the bonds were voted. The funds may not be diverted to any other purpose. (V.A.C.S. Art. 1193.)

Sec. 61.010. INTERVAL BETWEEN ELECTIONS. If a majority of the votes in a consolidation election in any municipality do not favor consolidation, another consolidation election involving the same municipalities may not be held within two years after the date the consolidation proposition was defeated. (V.A.C.S. Art. 1189(e).)

CHAPTER 62. ABOLITION OF MUNICIPALITIES

SUBCHAPTER A. AUTHORITY AND PROCEDURE

Sec. 62.001. ABOLITION OF CORPORATE EXISTENCE

Sec. 62.002. PETITION AND ELECTION

Sec. 62.003. ELECTION ORDER; CONDUCT OF ELECTION

Sec. 62.004. DECLARATION OF ABOLITION; CERTIFICATION

[Sections 62.005–62.040 reserved for expansion]

SUBCHAPTER B. RECEIVERSHIPS

- Sec. 62.041. APPLICATION FOR AND APPOINTMENT OF RECEIVER
- Sec. 62.042. NOTICE OF APPLICATION
- Sec. 62.043. BOND
- Sec. 62.044. FILING AND RECORDING ORDER AND BOND
- Sec. 62.045. DUTIES AND AUTHORITY
- Sec. 62.046. COMPENSATION

[Sections 62.047–62.080 reserved for expansion]

SUBCHAPTER C. PAYMENT OF INDEBTEDNESS AND DISPOSITION OF ASSETS UNDER RECEIVERSHIP

- Sec. 62.081. PRESENTATION OF CLAIMS
- Sec. 62.082. NOTICE OF CLAIMS
- Sec. 62.083. APPROVAL OF CLAIMS
- Sec. 62.084. COMPLETE OR PARTIAL DISALLOWANCE OF CLAIM
- Sec. 62.085. TAXPAYER PROTEST
- Sec. 62.086. SUITS TO ESTABLISH CLAIMS
- Sec. 62.087. ALLOWANCE AND APPROVAL OF ESTABLISHED CLAIMS
- Sec. 62.088. LIABILITY FOR COSTS
- Sec. 62.089. LIMITATIONS
- Sec. 62.090. PAYMENT OF CLAIMS
- Sec. 62.091. ADDITIONAL TAX
- Sec. 62.092. ASSESSMENT AND COLLECTION OF TAX
- Sec. 62.093. DELINQUENT TAXES
- Sec. 62.094. DISTRIBUTION OF ASSETS

[Sections 62.095–62.120 reserved for expansion]

SUBCHAPTER D. SCHOOLS AND PUBLIC PROPERTY

- Sec. 62.121. ADMINISTRATION OF PUBLIC SCHOOLS
- Sec. 62.122. TAXES
- Sec. 62.123. PUBLIC PROPERTY

[Sections 62.124–62.160 reserved for expansion]

SUBCHAPTER E. PAYMENT OF INDEBTEDNESS AND DISPOSITION OF ASSETS BY CORPORATE OFFICERS OR TRUSTEES

- Sec. 62.161. SETTLEMENT BY CORPORATE OFFICERS
- Sec. 62.162. SETTLEMENT BY TRUSTEES
- Sec. 62.163. ACTION FOR DEBT

CHAPTER 62. ABOLITION OF MUNICIPALITIES

SUBCHAPTER A. AUTHORITY AND PROCEDURE

- Sec. 62.001. ABOLITION OF CORPORATE EXISTENCE. A special-law municipality with 10,000 or fewer inhabitants or a general-law municipality may abolish its corporate existence as provided by this subchapter. (V.A.C.S. Art. 1241a, Sec. 1.)

Sec. 62.002. **PETITION AND ELECTION.** (a) The mayor of the municipality shall order an election on the question of abolishing the municipality's corporate existence if a petition requesting that the election be held is submitted to the mayor and is signed by at least 400 qualified voters of the municipality. However, if a majority of the qualified voters of the municipality is less than 400, the petition must be signed by at least two-thirds of the qualified voters of the municipality.

(b) The mayor shall order the election to be held on the same date as the next general election at which the office of mayor is to be filled. (V.A.C.S. Art. 1241a, Sec. 2.)

Sec. 62.003. **ELECTION ORDER; CONDUCT OF ELECTION.** The election shall be ordered, conducted, and canvassed in the same manner as is required for an election to incorporate the municipality, except that the mayor of the municipality shall perform all acts that would be performed by the county judge. (V.A.C.S. Art. 1241a, Sec. 4.)

Sec. 62.004. **DECLARATION OF ABOLITION; CERTIFICATION.** If a majority of the votes received in an abolition election are for abolition, the mayor of the municipality shall declare the municipality abolished and certify the abolition to the commissioners court of the county in which the municipality is located. The commissioners court shall enter the abolition order in its minutes, at which time the municipality ceases to exist. (V.A.C.S. Art. 1241a, Sec. 3.)

[Sections 62.005–62.040 reserved for expansion]

SUBCHAPTER B. RECEIVERSHIPS

Sec. 62.041. **APPLICATION FOR AND APPOINTMENT OF RECEIVER.** (a) Any creditor of a validly incorporated municipality that abolishes its corporate existence may apply to a district judge in the district in which the municipality is located to appoint a receiver for the municipality.

(b) After an application is filed and proper notice of the application is posted, the judge hearing the application in term time or vacation may appoint a suitable person as receiver. (V.A.C.S. Art. 1244 (part).)

Sec. 62.042. **NOTICE OF APPLICATION.** Before a judge may appoint a receiver, written notice stating the substance of the application for the appointment of the receiver and when and before whom the application will be heard must be posted at three or more public places in the county in which the municipality is located, one of which must be in the municipality itself. (V.A.C.S. Art. 1244 (part).)

Sec. 62.043. **BOND.** (a) A judge appointing a receiver shall set the receiver's bond at an amount that is at least twice the probable amount of the indebtedness or the value of the property of the municipality.

(b) The bond must be conditioned that the receiver will faithfully perform the duties of receiver and that the receiver will pay and deliver all money and property acquired as receiver to the parties entitled to the money or property.

(c) The bond must be approved by the judge who appoints the receiver. (V.A.C.S. Art. 1244 (part).)

Sec. 62.044. **FILING AND RECORDING ORDER AND BOND.** The district clerk of the county in which the abolished municipality is located shall file the receiver's bond and the order appointing the receiver with the minutes of the court, and the clerk shall record the order and the bond in the minutes. (V.A.C.S. Art. 1244 (part).)

Sec. 62.045. **DUTIES AND AUTHORITY.** (a) After the receiver gives the required bond, and after the bond is filed and recorded, the receiver shall:

(1) take control of all real and personal property of the abolished municipality, including money, minute books, ordinances, and similar property, but not including property that pertains to the public schools or that is devoted exclusively to public use; and

(2) in the next term of the court in which the receivership is pending, return to the court an inventory of the property taken by the receiver.

(b) Under a court order, or an order of the judge if the court is in vacation, the receiver may bring suit against any person in possession of the property of an abolished municipality or who is indebted to it in the same manner as the municipality could if it were still incorporated. (V.A.C.S. Art. 1245.)

Sec. 62.046. COMPENSATION. A court appointing a receiver under this subchapter may authorize compensation for the receiver. (V.A.C.S. Art. 1244 (part).)

[Sections 62.047–62.080 reserved for expansion]

SUBCHAPTER C. PAYMENT OF INDEBTEDNESS AND DISPOSITION OF ASSETS UNDER RECEIVERSHIP

Sec. 62.081. PRESENTATION OF CLAIMS. A person who has a claim against an abolished municipality must present a verified statement of the amount of the claim to the receiver within six months after the date the receiver is appointed. (V.A.C.S. Art. 1246 (part).)

Sec. 62.082. NOTICE OF CLAIMS. (a) A receiver may not allow or approve a claim or account against an abolished municipality until notice of presentment of the claim or account is given by publication in a newspaper in the municipality in which the claim is filed or presented for four consecutive weeks or, if a newspaper is not published in the municipality, by posting the notice for four consecutive weeks at the door of the courthouse of the county in which the municipality is located.

(b) The published or posted notice must state:

- (1) the name and residence address of the creditor;
- (2) the amount and date of the claim and account; and
- (3) the purpose for which the claim or account was incurred. (V.A.C.S. Art. 1247.)

Sec. 62.083. APPROVAL OF CLAIMS. If the receiver of an abolished municipality determines a claim is correct, the receiver shall mark it as allowed and file it in the district court. The court shall also approve the claim at its next regular term if no protest is filed. On approval by the court, the claim is a valid debt of the municipality. (V.A.C.S. Art. 1246 (part).)

Sec. 62.084. COMPLETE OR PARTIAL DISALLOWANCE OF CLAIM. (a) If a receiver of an abolished municipality determines that a claim is partially or completely unjust, the receiver shall endorse his finding on the claim and return it to the claimant.

(b) A claimant who accepts the findings of the receiver may file the claim with the district court. The court shall act on the part of the claim allowed in the same manner as other claims. (V.A.C.S. Art. 1248.)

Sec. 62.085. TAXPAYER PROTEST. (a) A district court may not approve a claim against an abolished municipality until the full amount of the claim is established by the judgment of a court of competent jurisdiction if a taxpayer of the municipality:

- (1) files a protest against the claim in the district court; and
- (2) files a bond that is conditioned that the taxpayer will pay all costs of suit if the claimant fully establishes his claim by the judgment of a state court with jurisdiction of the claim.

(b) The taxpayer's bond must be approved by the court in which it is filed. (V.A.C.S. Art. 1249 (part).)

Sec. 62.086. SUITS TO ESTABLISH CLAIMS. (a) A claimant may bring a suit against the receiver of an abolished municipality to establish a claim the receiver completely or partially disallowed or to establish a claim protested by a taxpayer.

(b) The receiver shall assert all applicable legal defenses against a suit under this section.

(c) The court trying a suit under this section may hear and consider any material defense against the claim except limitation, even if the claim previously has been reduced to judgment. However, the court shall consider a prior judgment establishing the claim as prima facie evidence of the justness of the claim. (V.A.C.S. Art. 1249 (part).)

Sec. 62.087. ALLOWANCE AND APPROVAL OF ESTABLISHED CLAIMS. A receiver of an abolished municipality shall allow, and a district court shall approve, a claim that is established by a judgment against the receiver. (V.A.C.S. Art. 1250 (part).)

Sec. 62.088. LIABILITY FOR COSTS. (a) A claimant in a suit against the receiver of an abolished municipality who rejects part of the claimant's claim is liable for the costs of the suit unless the claimant establishes the claim in an amount greater than the amount allowed by the receiver.

(b) A claimant in a suit to establish his claim because of a taxpayer protest under Section 62.085 is liable for the costs of the suit unless the claimant obtains a judgment for the full amount he asked the district court to approve. (V.A.C.S. Art. 1250 (part).)

Sec. 62.089. LIMITATIONS. (a) Limitations do not begin to run, do not expire, and may not be pled to bar a claim against an abolished municipality until six months after the date a receiver is appointed for the municipality.

(b) A claimant may not bring a suit against the receiver of an abolished municipality on a claim that is partially or completely disallowed under Section 62.084 or against which a taxpayer files a protest under Section 62.085 after six months after the date the claim is disallowed or the protest is filed. (V.A.C.S. Arts. 1251, 1253.)

Sec. 62.090. PAYMENT OF CLAIMS. The court in which the receivership of an abolished municipality is pending shall:

- (1) provide for the payment of the claims legally established against the municipality;
- (2) determine the priority of the claims;
- (3) order the sale of all property held by the receiver that is subject to sale for the satisfaction of the municipality's indebtedness; and
- (4) direct the receiver to pay the claims legally established against the municipality. (V.A.C.S. Art. 1254 (part).)

Sec. 62.091. ADDITIONAL TAX. (a) If the money of an abolished municipality and the proceeds from the sale of its property are insufficient to pay its indebtedness, at the request of any creditor the court in which the receivership is pending at its first regular term each year shall levy a tax on all real and personal property that is not exempt from taxation and that on the first day of January of the preceding year is located within the corporate limits of the municipality as those limits previously existed.

(b) The court shall levy a tax sufficient to discharge the municipality's indebtedness, except that the court may not set the tax at a rate that is greater than the rate allowed by law for such purposes in municipalities. (V.A.C.S. Art. 1254 (part).)

Sec. 62.092. ASSESSMENT AND COLLECTION OF TAX. (a) The tax assessor-collector for the county in which an abolished municipality is located shall assess and collect a tax ordered under Section 62.091.

(b) The tax assessor-collector shall pay the taxes collected to the receiver for the municipality. (V.A.C.S. Art. 1255.)

Sec. 62.093. DELINQUENT TAXES. A receiver for an abolished municipality may bring suit against a delinquent taxpayer and enforce a lien against the taxpayer's property in the same manner as if the corporate existence of the municipality had not been abolished and the levy and assessment had been made by the municipality's governing body and assessor. (V.A.C.S. Art. 1256.)

Sec. 62.094. DISTRIBUTION OF ASSETS. (a) The compensation of the receiver, court costs, and expenses have priority over other claims against an abolished municipality and shall be paid first out of money on hand or collected.

(b) Money collected each year from taxes shall be paid pro rata on claims according to their priorities until all claims established against the municipality and all costs and expenses are paid in full.

(c) After the final settlement of the receivership, the receiver shall deliver money or other property remaining to the trustees or other officers in charge of any public school district located completely within the boundaries of the abolished municipality, and the

money or property shall be used for the benefit of the school district. If there is no such public school district, the receiver shall deliver the remaining money or property to the county in which the municipality is located. The money shall be deposited in the general fund of the county, and the property shall be used for the benefit of the county. (V.A.C.S. Art. 1257.)

[Sections 62.095–62.120 reserved for expansion]

SUBCHAPTER D. SCHOOLS AND PUBLIC PROPERTY

Sec. 62.121. ADMINISTRATION OF PUBLIC SCHOOLS. If at the time a municipality is abolished under this chapter the public schools of the municipality are managed by trustees appointed or elected by the voters of the municipality or by its governing body, the trustees shall continue to manage the schools for the remainder of their appointive or elective term. (V.A.C.S. Art. 1258.)

Sec. 62.122. TAXES. A receiver for an abolished municipality shall collect all unpaid taxes levied before the date of abolition for municipal or school purposes, together with any penalties or interest that is due. The receiver shall pay the part of the taxes levied for maintaining the public schools to the trustees of the school district, who shall use the taxes for the purpose for which they were levied. (V.A.C.S. Art. 1259.)

Sec. 62.123. PUBLIC PROPERTY. If a municipality abolished under this chapter owns public buildings, public parks, public works, or other public property on the date of abolition and the property is not sold or disposed of under this chapter, the commissioners court shall manage and control the property for the purposes for which the property was originally used and intended. In managing and controlling the property, the commissioners court may exercise the powers originally given by charter to the governing body of the municipality. (V.A.C.S. Art. 1260.)

[Sections 62.124–62.160 reserved for expansion]

SUBCHAPTER E. PAYMENT OF INDEBTEDNESS AND DISPOSITION OF ASSETS BY CORPORATE OFFICERS OR TRUSTEES

Sec. 62.161. SETTLEMENT BY CORPORATE OFFICERS. (a) If a municipality or de facto municipality that has indebtedness outstanding is abolished, declared void by a court of competent jurisdiction, or ceases to operate and exercise municipal functions, the municipality's officers at the time the municipality is dissolved or ceases to function shall:

- (1) take control of the municipality's property;
- (2) sell and dispose of the municipality's property; and
- (3) settle the debts owed by the municipality.

(b) For the purpose of settling the debts of the municipality, the former municipal officers may levy and collect a tax on the residents of the municipality in the same manner as the municipality could have done. (V.A.C.S. Art. 1262 (part).)

Sec. 62.162. SETTLEMENT BY TRUSTEES. (a) If a municipality's officers fail or refuse to settle its affairs under Section 62.161, on the petition of any resident taxpayer of the municipality or any holder of an evidence of its indebtedness, a court with jurisdiction and located in the county in which the municipality is located shall appoint three trustees to take control of the municipality's property, dispose of the property, and settle its debts.

(b) The trustees have the same powers that municipal officers have under this subchapter. (V.A.C.S. Art. 1262 (part).)

Sec. 62.163. ACTION FOR DEBT. (a) The holder of an indebtedness against a municipality to which Section 62.161 applies may bring a suit to establish the indebtedness in any court in this state with jurisdiction in the county in which the municipality is located. The court may render judgment in the suit against the municipality as fully as if the municipality had not been abolished or its organization declared void. The status of the municipality remains the same insofar as it affects the holders of its indebtedness until the indebtedness is paid.

(b) The municipality may be served with process in the suit by serving the citation on a person who was or who acted as the mayor, the secretary, or the treasurer of the municipality at the time of the municipality's abolition. (V.A.C.S. Art. 1263.)

[Chapters 63-70 reserved for expansion]

TITLE 3. ORGANIZATION OF COUNTY GOVERNMENT

SUBTITLE A. ORGANIZATION OF COUNTIES

CHAPTER 71. CREATION OF COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 71.001. CORPORATE AND POLITICAL BODY
- Sec. 71.002. PLACE FOR HOLDING TERMS OF COURTS IN NEW COUNTY BEFORE COUNTY SEAT IS DESIGNATED

[Sections 71.003-71.010 reserved for expansion]

SUBCHAPTER B. ELECTION FOR DETACHMENT OR ATTACHMENT OF COUNTY TERRITORY

- Sec. 71.011. APPLICATION AND ELECTION
- Sec. 71.012. ELECTION RESULTS
- Sec. 71.013. SUBSEQUENT ELECTION

[Sections 71.014-71.020 reserved for expansion]

SUBCHAPTER C. ORGANIZATION OF COUNTIES

- Sec. 71.021. ATTACHMENT OF COUNTIES
- Sec. 71.022. ESTABLISHMENT OF PRECINCTS
- Sec. 71.023. ELECTION OF COUNTY OFFICERS
- Sec. 71.024. ORGANIZATION OF ATTACHED COUNTY
- Sec. 71.025. DELIVERY TO NEW OFFICERS

[Sections 71.026-71.030 reserved for expansion]

SUBCHAPTER D. APPORTIONMENT OF COUNTY INDEBTEDNESS

- Sec. 71.031. LIABILITY OF NEW COUNTY
- Sec. 71.032. SUIT TO ENFORCE PAYMENT OF LIABILITY
- Sec. 71.033. TAX TO PAY INDEBTEDNESS
- Sec. 71.034. LIABILITY OF ATTACHED TERRITORY
- Sec. 71.035. COUNTY BONDS HELD BY SCHOOL FUND

TITLE 3. ORGANIZATION OF COUNTY GOVERNMENT

SUBTITLE A. ORGANIZATION OF COUNTIES

CHAPTER 71. CREATION OF COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 71.001. CORPORATE AND POLITICAL BODY. A county is a corporate and political body. (V.A.C.S. Art. 1572.)

Sec. 71.002. PLACE FOR HOLDING TERMS OF COURTS IN NEW COUNTY BEFORE COUNTY SEAT IS DESIGNATED. Until the county seat of a new county is established, the terms of the district, county, and commissioners courts of the county shall be held at the place designated by the commissioners court. (V.A.C.S. Art. 1604.)

[Sections 71.003–71.010 reserved for expansion]

SUBCHAPTER B. ELECTION FOR DETACHMENT OR ATTACHMENT
OF COUNTY TERRITORY

Sec. 71.011. APPLICATION AND ELECTION. (a) A part of a county may not be detached from one county and attached to another county unless the proposition for the change is approved by a majority of the voters in both counties as required by Article IX, Section 1, of the Texas Constitution.

(b) On the written application of at least 50 qualified voters of a county, the county judge of the county shall order an election to consider detaching from the county a part of its territory or to consider attaching to the county a part of another county.

(c) The application must designate the part by a metes and bounds description and must show:

- (1) the number of acres contained within the part;
- (2) the number of acres remaining in the county from which the part is detached; and
- (3) the distance on a direct line from the county seat of the county from which the part is detached to the nearest point on the boundary of the detached territory.

(d) The notice of the election must contain substantially the information included in the application and the election order. (V.A.C.S. Arts. 1555, 1556, 1557, 1558, 1560.)

Sec. 71.012. ELECTION RESULTS. (a) The returns of each election shall be made to the county judge of the county in which the election is held.

(b) The county judge shall:

- (1) estimate the vote;
- (2) make duplicate statements of the estimate; and
- (3) officially certify the statements.

(c) The county judge shall seal in an envelope one copy of the certified statement and a certified copy of the voters' application for the election. The judge shall write the judge's name across the seal of the envelope and shall endorse the envelope as "Election returns of _____ County." The judge shall send the material by mail or other safe conveyance to the speaker of the house of representatives at the State Capitol so that the material will be received as early as practicable during the next legislative session. (V.A.C.S. Art. 1561.)

Sec. 71.013. SUBSEQUENT ELECTION. If the election is held in a county and the proposition to detach part of the county is defeated at the election, a subsequent election for the same purpose may not be ordered or held within five years after the date of the initial election. (V.A.C.S. Art. 1562.)

[Sections 71.014–71.020 reserved for expansion]

SUBCHAPTER C. ORGANIZATION OF COUNTIES

Sec. 71.021. ATTACHMENT OF COUNTIES. (a) Until a new county is legally organized, the territory of the new county remains subject to the county from which it is taken.

(b) A legally organized county that, for any reason, loses its county organization is attached to the organized county whose county seat is closest to that of the disorganized county. The attachment is made for judicial and surveying purposes and for the registration of a deed, mortgage, or other instrument that is required or permitted by law to be recorded. The disorganized county remains attached until it is again legally organized. (V.A.C.S. Arts. 1566, 1567.)

Sec. 71.022. ESTABLISHMENT OF PRECINCTS. (a) If a new county is established, the commissioners court of the county from which the largest part of the territory of the new county is taken shall, not later than one month before the date of the next scheduled general election:

(1) divide the new county into convenient precincts for the election of justices of the peace and constables; and

(2) select convenient polling places in the new county.

(b) The commissioners court shall direct the county clerk to make a record of its actions under this section and shall transmit a copy of that record to the person who is elected county judge of the new county. (V.A.C.S. Art. 1563.)

Sec. 71.023. ELECTION OF COUNTY OFFICERS. (a) Before one month before the date of the next scheduled general election after a new county is established, the county judge of the county from which the new county is taken shall order an election for county officers to be held in the new county on the general election day. The order shall specify the number of precincts, the precinct boundaries, and the officers to be elected in the new county.

(b) The county judge shall appoint a presiding officer to hold the election at each designated place in the new county. Each presiding officer shall hold the election in accordance with the state election laws and shall make the returns to the county judge who ordered the election.

(c) The county judge shall open and examine the returns, issue certificates of election to the persons elected, and approve the bonds of the elected officers.

(d) If the office of county judge is vacant, any two of the county commissioners may perform the duties required of the county judge under this section. (V.A.C.S. Arts. 1564, 1565, 1569.)

Sec. 71.024. ORGANIZATION OF ATTACHED COUNTY. On the written petition of at least 75 qualified voters who are residents of a disorganized county, the commissioners court of the county to which the disorganized county is attached for judicial or other purposes shall legally organize the county without delay in the manner provided by this subchapter for the organization of new counties. (V.A.C.S. Art. 1568.)

Sec. 71.025. DELIVERY TO NEW OFFICERS. The officers of a county from which a new county has been created or to which a newly organized county has been attached and all other persons who have in their possession books, records, maps, or other property that belongs to the new county shall deliver the material to the proper officers of the new county within five days after the date on which the new officers legally qualify. (V.A.C.S. Art. 1570.)

[Sections 71.026–71.030 reserved for expansion]

SUBCHAPTER D. APPORTIONMENT OF COUNTY INDEBTEDNESS

Sec. 71.031. LIABILITY OF NEW COUNTY. (a) A new county is liable for a proportionate share of the indebtedness of the county from which it was created.

(b) The new county's liability is the amount that bears the same ratio to the property value in the territory excised from the original county that the total indebtedness of the original county at the time of the creation of the new county bears to the total property value in the original county, including the value of the property in the territory excised from the original county.

(c) After organization of the new county, the commissioners court of the new county shall levy a tax on all property in the new county in order to pay the proportionate share of the indebtedness at the same tax rate as that set by the commissioners court of the original county for the payment of the debt. (V.A.C.S. Arts. 1546 (part), 1547 (part), 1552.)

Sec. 71.032. SUIT TO ENFORCE PAYMENT OF LIABILITY. (a) A county from which a new county has been created may sue to recover the new county's share of the original county's indebtedness. The suit may be brought in a district court of either county.

(b) If a suit is brought to enforce payment of the indebtedness created by the original county or of the excised territory's proportionate share of the indebtedness, the tax assessment rolls of the original county for the year in which the new county was created

are conclusive evidence of the property remaining in the original county, the property in the excised territory, and the value of that property as of the date of the creation of the new county. However, if the new county was organized and made assessment rolls for the year in which it was created, those assessment rolls are conclusive evidence of the property in the new county and the taxable value of that property as of the date of the creation of the new county, and the assessment rolls of the original county for that year are conclusive evidence of the property remaining in the original county and the value of that property as of the date of the creation of the new county. (V.A.C.S. Arts. 1547 (part), 1548.)

Sec. 71.033. TAX TO PAY INDEBTEDNESS. (a) If the original county recovers in a suit brought under Section 71.032(a), the court that renders the judgment shall order the commissioners court of the newly created county to levy a special tax on all the property in the territory taken from the original county in an amount that is sufficient to satisfy the judgment.

(b) If the first levy is insufficient to satisfy the judgment, the commissioners court shall make annual levies until the judgment is satisfied. (V.A.C.S. Art. 1549.)

Sec. 71.034. LIABILITY OF ATTACHED TERRITORY. (a) If a part of a county is detached from a county and attached to another county, the attached territory remains liable for its proportionate share of the indebtedness of the county from which it was detached.

(b) The commissioners court of the county to which the territory is attached shall levy a tax in the territory at a rate sufficient to pay the territory's share of the indebtedness. (V.A.C.S. Arts. 1546 (part), 1551.)

Sec. 71.035. COUNTY BONDS HELD BY SCHOOL FUND. (a) The comptroller of public accounts shall apportion between a county and a new county created from territory detached from the original county the bonds, and the coupons due on those bonds, that are held by the permanent school fund if the bonds were legally issued by the original county before the new county was created. The comptroller shall apportion the bonds and coupons in the manner provided by law.

(b) The commissioners courts of the original county and the new county shall levy a tax at a rate sufficient to pay each county's proportionate share of the bond debt. (V.A.C.S. Arts. 1553, 1554.)

CHAPTER 72. COUNTY BOUNDARIES

- Sec. 72.001. BOUNDARY SURVEY; APPOINTMENT OF SURVEYOR
- Sec. 72.002. NOTICE TO ADJACENT COUNTY; APPOINTMENT OF ADDITIONAL SURVEYOR
- Sec. 72.003. BOUNDARY MARKERS
- Sec. 72.004. DUTIES OF SURVEYOR; FIELD NOTES
- Sec. 72.005. OATH AND BOND OF SURVEYOR
- Sec. 72.006. PAYMENT OF EXPENSES
- Sec. 72.007. EFFECT OF FAILURE OF APPOINTED SURVEYOR TO APPEAR
- Sec. 72.008. EFFECT OF FAILURE TO AGREE ON BOUNDARY
- Sec. 72.009. SUIT TO ESTABLISH BOUNDARIES

CHAPTER 72. COUNTY BOUNDARIES

Sec. 72.001. BOUNDARY SURVEY; APPOINTMENT OF SURVEYOR. (a) If a county court finds, or is notified by the commissioner of the General Land Office, that the boundary or part of a boundary of the county is not sufficiently definite, the county court shall appoint an experienced and competent registered public surveyor to conduct a survey of the boundary in question. The surveyor shall make and establish the boundary lines and corners in the manner prescribed by this chapter.

(b) In the order appointing the surveyor, the county court shall designate the boundary lines to be run and the boundary corners to be established and marked and shall conform to the law that defined the boundaries of the county. (V.A.C.S. Art. 1582.)

Sec. 72.002. NOTICE TO ADJACENT COUNTY; APPOINTMENT OF ADDITIONAL SURVEYOR. (a) A county court that orders a boundary survey shall give notice of the survey to the county court of any other county that has an interest in the boundary by sending a copy of the order to the county court of that county. The notice must be given before the 10th day before the date on which the notified county court meets.

(b) The order must state the time and place for the beginning of the survey. The day scheduled for the beginning of the survey must be on or before the 20th day after the day on which the notified county court meets.

(c) The notified county court shall appoint an experienced and competent registered public surveyor to assist in the survey of the boundary lines in question. (V.A.C.S. Art. 1585.)

Sec. 72.003. BOUNDARY MARKERS. (a) The initial corners of the survey shall be designated by boundary markers.

(b) Only a post, a stone monument, or a mound may be used as a boundary marker.

(c) A post used as a boundary marker must be of hewn cedar, cypress, or bois d'arc. The post must be at least eight inches in diameter and at least five feet in length and must be set in the ground to a depth of at least three feet.

(d) A mound used as a boundary marker must be composed of stone if the use of stone is practicable. If the use of stone is not practicable, a mound may be composed of earth. A mound must be at least two feet in height. (V.A.C.S. Art. 1583 (part).)

Sec. 72.004. DUTIES OF SURVEYOR; FIELD NOTES. (a) A surveyor appointed under this chapter shall describe the initial corners of the boundary lines on the boundary markers established at the corners. The surveyor shall supervise the establishment of additional boundary markers at one-mile intervals along the boundary line.

(b) In the field notes of the survey, the surveyor shall accurately describe all prominent natural objects that are crossed by or are adjacent to the boundary lines under survey, as well as the corners and lines of surveys on or near the boundaries.

(c) After each boundary line in question is surveyed and marked, the surveyor promptly shall return the field notes and map of the survey to the county court that appointed the surveyor.

(d) The county clerk shall record the field notes and map and shall deliver a certified copy of the notes and map to the General Land Office. (V.A.C.S. Arts. 1583 (part), 1584, 1587, 1590 (part).)

Sec. 72.005. OATH AND BOND OF SURVEYOR. (a) Before performing duties under this chapter, a surveyor must take the oath of office prescribed by the constitution for appointed officers and must execute a bond conditioned that the surveyor will faithfully perform those duties.

(b) The bond must be in the amount of \$1,000, must be payable to the county judge or the judge's successors in office, and must have two or more sureties who are approved by the county judge. (V.A.C.S. Art. 1586.)

Sec. 72.006. PAYMENT OF EXPENSES. (a) The counties that have an interest in the boundary lines in question shall divide the expenses incurred in making the survey and establishing the boundary markers in proportion to each county's frontage on the line.

(b) A surveyor appointed under this chapter is entitled to receive \$3 for each mile surveyed. (V.A.C.S. Art. 1590 (part).)

Sec. 72.007. EFFECT OF FAILURE OF APPOINTED SURVEYOR TO APPEAR. If either of the surveyors appointed under Sections 72.001 and 72.002 is absent at the time and place scheduled for the beginning of the survey, the surveyor who is present shall conduct the survey alone and shall deliver the survey report to the county court that appointed that surveyor. On approval by that court, the report shall be recorded as evidence of the boundary line in question and shall be treated as the true boundary between the counties. (V.A.C.S. Art. 1588.)

Sec. 72.008. EFFECT OF FAILURE TO AGREE ON BOUNDARY. (a) If the surveyors appointed under Sections 72.001 and 72.002 fail to agree on the boundary line in

question between their respective counties, they shall report to the commissioner of the General Land Office the facts of the disagreement, with a full statement of the questions at issue.

(b) The commissioner shall examine the disputed matter at once. From the information maintained in the General Land Office, the commissioner shall designate to the surveyors the line to be run, stating at what specific point the surveyors shall begin and to what specific point they shall run the line. In the instructions to the surveyors, the commissioner shall adhere as closely as possible to the line designated in the law that created the county line. The instructions from the commissioner constitute authority for the surveyors to run that line. After the survey based on the commissioner's instructions, that line is the true boundary between the counties. (V.A.C.S. Art. 1589.)

Sec. 72.009. SUIT TO ESTABLISH BOUNDARIES. (a) A county may bring suit against an adjacent county to establish the common boundary line. The suit must be brought in the district court of a county in an adjoining judicial district whose boundaries are not affected by the suit and whose county seat is closest to the county seat of the county that brings the suit. The court shall try the suit in the same manner in which it tries other suits.

(b) The district court has jurisdiction to determine where the boundary line is located and may order the line to be re-marked and resurveyed. The line established by the district court shall be treated as the true boundary between the counties unless the court determines that the line in question was established under prior law. If the district court determines that the boundary line has been established under prior law, the court shall declare that line to be the true boundary between the counties and shall have that line resurveyed and established as the boundary.

(c) The commissioner of the General Land Office may not mark a contested county line on the maps maintained by the land office until a certified copy of the final judgment is filed in the land office with a certified copy of the field notes of the boundary line established by the judgment.

(d) The remedy provided by this section is in addition to any other remedy prescribed by this chapter. (V.A.C.S. Arts. 1591, 1592.)

CHAPTER 73. LOCATION OF COUNTY SEAT

SUBCHAPTER A. COUNTY SEAT IN NEWLY ORGANIZED COUNTY

Sec. 73.001. ELECTION REQUIREMENT

Sec. 73.002. VOTE REQUIRED FOR LOCATION

[Sections 73.003–73.010 reserved for expansion]

SUBCHAPTER B. RELOCATION OF COUNTY SEATS

Sec. 73.011. APPLICATION FOR RELOCATION ELECTION

Sec. 73.012. DESIGNATION OF GEOGRAPHIC CENTER OF COUNTY

Sec. 73.013. ELECTION REQUIREMENTS

Sec. 73.014. ELECTION RESULTS; RELOCATION OF COUNTY SEAT

Sec. 73.015. SUBSEQUENT RELOCATION

CHAPTER 73. LOCATION OF COUNTY SEAT

SUBCHAPTER A. COUNTY SEAT IN NEWLY ORGANIZED COUNTY

Sec. 73.001. ELECTION REQUIREMENT. If a new county is organized, the county judge who conducts the election for officers for the new county shall order an election for the location of the county seat. The election shall be conducted in the same manner as an election for county officers. (V.A.C.S. Art. 1593 (part).)

Sec. 73.002. VOTE REQUIRED FOR LOCATION. The location that receives the majority of votes cast in the election is the county seat. However, a county seat first established in a newly organized county may not be located more than five miles from the

geographic center of the county unless at least two-thirds of the voters voting in the election on the subject vote for the site. (V.A.C.S. Arts. 1593 (part), 1594.)

[Sections 73.003–73.010 reserved for expansion]

SUBCHAPTER B. RELOCATION OF COUNTY SEATS

Sec. 73.011. APPLICATION FOR RELOCATION ELECTION. (a) The county judge of a county shall order an election on the question of the relocation of the county seat of the county if an application for the relocation election is made by at least 100 resident freeholders and qualified voters of the county. However:

(1) if the county seat has been established in the same location for more than 10 years but for 40 years or less and the county has 350 or more voters, to be determined by the number of votes cast in the county in the most recent general election, at least 200 resident freeholders and qualified voters must make the application; or

(2) if the county has 150 or fewer qualified voters or if the county seat has been established in the same location for more than 40 years, a majority of the resident freeholders and qualified voters of the county, as determined by the county judge from the county assessment rolls, must make the application.

(b) If the county judge fails, refuses, or is unable to perform a duty imposed on the judge by this section, that duty may be performed by any two county commissioners of the county.

(c) An order under this section must be in writing and entered in the minutes of the commissioners court. (V.A.C.S. Arts. 1593 (part), 1596 (part).)

Sec. 73.012. DESIGNATION OF GEOGRAPHIC CENTER OF COUNTY. (a) On notification by a county judge that a proposition to relocate the county seat has been submitted to the people of the county or that it is desirable that the center of the county be designated, before the relocation of the county seat, the commissioner of the General Land Office shall designate the geographic center of the county based on the maps, surveys, and other information on file in the General Land Office. The commissioner shall certify the center to the county judge.

(b) The county judge shall enter the commissioner's designation in the county deed records. (V.A.C.S. Art. 1597.)

Sec. 73.013. ELECTION REQUIREMENTS. (a) A relocation election must be held on the first election date that is authorized by Chapter 41, Election Code, and that occurs after the 30th day after the date of the order.

(b) The election shall be ordered to be held in each voting precinct in the county and shall be held, insofar as possible, in the same manner as an election for county officers. The ballot shall be printed to provide for voting for or against the proposition: "Moving the county seat from _____ (name of the place) to _____ (name of the place)."

(c) The requirements of this subsection are in addition to those imposed by Article IX, Section 2, of the Texas Constitution relating to the number of votes that are necessary to move a county seat in certain cases. A two-thirds vote of the voters voting at the election is required to move a county seat located:

(1) more than five miles from the geographic center of the county to another site more than five miles from the center; or

(2) within five miles of the geographic center of the county to another site within five miles of the center.

(d) The geographic center of the county shall be determined by a certificate from the commissioner of the General Land Office. (V.A.C.S. Arts. 1595 (part), 1596 (part), 1598 (part), 1599 (part).)

Sec. 73.014. ELECTION RESULTS; RELOCATION OF COUNTY SEAT. (a) Within 10 days after the date the relocation election is held, the officers who conduct the election shall bring the election returns to the county judge or the county commissioners who ordered the election.

(b) The county judge or county commissioners shall tabulate the returns and declare the result.

(c) In the records of the commissioners court, the county judge or county commissioners shall enter the result of the election, the name of the original site of the county seat, and the name of the new site if the election results in relocation.

(d) A certified copy of the entry shall be recorded in the county deed records.

(e) After the entry is made, a county seat that is changed by the election is relocated to the new site. (V.A.C.S. Arts. 1599 (part), 1600.)

Sec. 73.015. SUBSEQUENT RELOCATION. After an election for the location or removal of a county seat has been held and the question settled, an application for another relocation of the county seat may not be submitted within 10 years after the date of the last election. However, an application may be submitted and a relocation election held within two years after the date of the last election to move a county seat from a site more than five miles from a railroad operating as a common carrier to a site on a railroad. (V.A.C.S. Art. 1601 (part).)

[Chapters 74–80 reserved for expansion]

SUBTITLE B. COMMISSIONERS COURT AND COUNTY OFFICERS

CHAPTER 81. COMMISSIONERS COURT

SUBCHAPTER A. ORGANIZATION AND PROCEDURE

- Sec. 81.001. COMPOSITION, PRESIDING OFFICER
- Sec. 81.002. OATH, BOND
- Sec. 81.003. CLERK
- Sec. 81.004. SEAL
- Sec. 81.005. TERMS OF COURT, MEETINGS
- Sec. 81.006. QUORUM; VOTE REQUIRED FOR TAX LEVY
- Sec. 81.007. NOTICE

[Sections 81.008–81.020 reserved for expansion]

SUBCHAPTER B. DUTIES AND POWERS

- Sec. 81.021. CHANGE IN PRECINCT BOUNDARIES
- Sec. 81.022. PROCESS
- Sec. 81.023. SPECIAL COUNSEL IN COUNTIES WITH POPULATION OF MORE THAN 500,000
- Sec. 81.024. CONTEMPT
- Sec. 81.025. DISTRICT AND COUNTY COURT SEALS
- Sec. 81.026. STATE ASSOCIATION OF COUNTIES

[Sections 81.027–81.040 reserved for expansion]

SUBCHAPTER C. SUITS INVOLVING COUNTIES

- Sec. 81.041. PRESENTATION OF CLAIM
- Sec. 81.042. JURORS AND WITNESSES
- Sec. 81.043. SATISFACTION OF JUDGMENT

SUBTITLE B. COMMISSIONERS COURT AND COUNTY OFFICERS

CHAPTER 81. COMMISSIONERS COURT

SUBCHAPTER A. ORGANIZATION AND PROCEDURE

Sec. 81.001. COMPOSITION, PRESIDING OFFICER. (a) The members of the commissioners court are the county judge and the county commissioners.

(b) If present, the county judge is the presiding officer of the commissioners court. (V.A.C.S. Art. 2342.)

Sec. 81.002. OATH, BOND. (a) Before undertaking the duties of the county judge or a county commissioner, a person must take the official oath and swear in writing that the person will not be interested, directly or indirectly, in a contract with or claim against the county except:

- (1) a contract or claim expressly authorized by law; or
- (2) a warrant issued to the judge or commissioner as a fee of office.

(b) A commissioner must execute a bond, payable to the county treasurer, in the amount of \$3,000. The bond must be approved by the county judge and must be conditioned on the faithful performance of the commissioner's official duties. The bond must also be conditioned that the commissioner:

- (1) will reimburse the county for all county funds illegally paid to the commissioner; and
- (2) will not vote or consent to make a payment of county funds except for a lawful purpose. (V.A.C.S. Art. 2340.)

Sec. 81.003. CLERK. (a) The county clerk is the clerk of the commissioners court. The clerk shall:

- (1) serve the court during each of its terms;
- (2) keep the court's books, papers, records, and effects; and
- (3) issue the notices, writs, and process necessary for the proper execution of the court's powers and duties.

(b) The court shall require the clerk to record in suitable books the proceedings of each term of the court. After each term the county judge or the presiding member of the court shall read and sign and the clerk shall attest this record.

(c) The clerk shall record the court's authorized proceedings between terms. On the first day of the first term after these proceedings, the county judge or the presiding member of the court shall read and sign this record. (V.A.C.S. Arts. 1940, 2345, 2349.)

Sec. 81.004. SEAL. (a) The commissioners court shall have a seal on which is engraved:

- (1) the words "Commissioners Court, (*name of county*) County, Texas"; and
- (2) a five-pointed star or a design selected by the court and approved by the secretary of state.

(b) The clerk shall keep the seal and use it to authenticate official acts of the court or its presiding officer or clerk that require a seal for authentication. (V.A.C.S. Art. 2344.)

Sec. 81.005. TERMS OF COURT, MEETINGS. (a) The commissioners court shall convene in a regular term on the second Monday of each month, except that if the completion of the court's business does not require a monthly term, the court need not hold more than one term a quarter. A regular term may continue for one week but may be adjourned earlier if the court's business is completed.

(b) The county judge or three county commissioners may call a special term of the court. A special term may continue until the court's business is completed.

(c) The term shall be held at the county seat at the courthouse.

(d) Any business of the commissioners court that is required by law to be conducted at a regular term may also be conducted at any meeting of the court held on a day on which the court routinely and periodically meets, regardless of whether the periodic interval is weekly, monthly, quarterly, annually, or some other interval. (V.A.C.S. Arts. 1602 (part), 2348.)

Sec. 81.006. QUORUM; VOTE REQUIRED FOR TAX LEVY. (a) Three members of the commissioners court constitute a quorum for conducting county business except the levying of a county tax.

(b) A county tax may be levied at any regularly scheduled meeting of the court when at least four members of the court are present.

(c) A county may not levy a tax unless at least three members of the court vote in favor of the levy. (V.A.C.S. Arts. 2343, 2354.)

Sec. 81.007. NOTICE. (a) If the commissioners court is unable to obtain publication of a notice or report as required by law, the court may post a copy of the notice or report at the courthouse door and post one copy at a public place in each commissioner's precinct. However, not more than one copy may be posted in the same municipality.

(b) Posting must continue for the 30 days preceding the date the next court term begins. (V.A.C.S. Art. 2347.)

[Sections 81.008–81.020 reserved for expansion]

SUBCHAPTER B. DUTIES AND POWERS

Sec. 81.021. CHANGE IN PRECINCT BOUNDARIES. (a) A commissioners court that orders a change in the boundaries of commissioner or justice precincts may specify in its order an effective date of the change that is not later than January 1 following the next general election. An election for precinct office occurring after the date that the order is issued but before the effective date of the change in boundaries shall be held in the precincts as they will exist on that effective date. A person who has resided in the area included in a new precinct for the period required for eligibility to hold office is not made ineligible on the ground that the precinct has not existed for that period.

(b) The term of office of a commissioner, justice of the peace, or constable who holds office at the time a change in precinct boundaries becomes effective is not affected by the change, regardless of whether the change places the officer's residence outside the precinct for which the officer was elected. The officer is entitled to serve for the remainder of the term to which the officer was elected. (V.A.C.S. Art. 2351-½.)

Sec. 81.022. PROCESS. (a) The commissioners court shall issue the notices, citations, writs, and process necessary for the proper execution of its powers and duties and the enforcement of its jurisdiction. A notice, citation, writ, or process must:

- (1) be in the name of the "State of Texas";
- (2) be directed to the sheriff or a constable of a county;
- (3) be dated and signed officially by the clerk; and
- (4) be impressed with the court seal.

(b) Unless otherwise provided by law, process must be executed before the fifth day before its return date. The return date shall be specified in the process.

(c) A subpoena for a witness may be executed and returned immediately if necessary. (V.A.C.S. Art. 2346; Art. 2351, Subdiv. 14, as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 81.023. SPECIAL COUNSEL IN COUNTIES WITH POPULATION OF MORE THAN 500,000. (a) The commissioners court of a county with a population of more than 500,000 may employ an attorney as special counsel.

(b) The special counsel may be employed to:

- (1) represent the county in any suit brought by or against the county;
- (2) prepare necessary documents and otherwise assist the court, the county engineer, and other county employees in the acquisition of rights-of-way for the county and for state highways; or
- (3) represent the county in condemnation proceedings for the acquisition of rights-of-way for highways and other purposes for which the county has the right of eminent domain.

(c) The county attorney shall select the special counsel. If the county does not have a county attorney, the district attorney or criminal district attorney shall select the special counsel. The selecting officer shall determine the terms and duration of employment of the special counsel, subject to the court's approval. (V.A.C.S. Art. 2372p.)

Sec. 81.024. CONTEMPT. The commissioners court shall punish a person held in contempt by a fine of not more than \$25 or by confinement for not more than 24 hours. A person fined under this section may be confined until the fine is paid. (V.A.C.S. Art. 2351, Subdiv. 13, as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 81.025. DISTRICT AND COUNTY COURT SEALS. The commissioners court shall provide the seals required by law for district and county courts. (V.A.C.S. Art. 2351, Subdiv. 9, as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 81.026. STATE ASSOCIATION OF COUNTIES. (a) The commissioners court may spend, in the name of the county, money from the county's general fund for membership fees and dues of a nonprofit state association of counties if:

- (1) a majority of the court votes to approve membership in the association;
- (2) the association exists for the betterment of county government and the benefit of all county officials;
- (3) the association is not affiliated with a labor organization;
- (4) neither the association nor an employee of the association directly or indirectly influences or attempts to influence the outcome of any legislation pending before the legislature, except that this subdivision does not prevent a person from providing information for a member of the legislature or appearing before a legislative committee at the request of the committee or the member of the legislature; and
- (5) neither the association nor an employee of the association directly or indirectly contributes any money, services, or other valuable thing to a political campaign or endorses a candidate or group of candidates for public office.

(b) If any association or organization supported wholly or partly by payments of tax receipts from political subdivisions engages in an activity described by Subsection (a)(4) or (5), a taxpayer of a political subdivision that pays fees or dues to the association or organization is entitled to appropriate injunctive relief to prevent any further activity described by Subsection (a)(4) or (5) or any further payments of fees or dues. (V.A.C.S. Art. 2352f.)

[Sections 81.027–81.040 reserved for expansion]

SUBCHAPTER C. SUITS INVOLVING COUNTIES

Sec. 81.041. PRESENTATION OF CLAIM. (a) A person may not sue on a claim against a county unless the person has presented the claim to the commissioners court and the commissioners court has neglected or refused to pay all or part of the claim.

(b) If the plaintiff in a suit against a county does not recover more than the commissioners court offered to pay on presentation of the claim, the plaintiff shall pay the costs of the suit. (V.A.C.S. Arts. 1573, 1581.)

Sec. 81.042. JURORS AND WITNESSES. In a suit brought by or against a county, a resident of the county may be a juror or witness if the resident is otherwise competent. (V.A.C.S. Art. 1574.)

Sec. 81.043. SATISFACTION OF JUDGMENT. The commissioners court shall settle and pay a judgment against the county in the same manner and pro rata as other similar claims are settled and paid by the court. Execution may not be issued on a judgment against a county. (V.A.C.S. Art. 1575.)

CHAPTER 82. COUNTY CLERK

- Sec. 82.001. SURETY BOND AND OATH OF COUNTY CLERK
- Sec. 82.002. SURETY BOND ON DEPUTY CLERKS AND EMPLOYEES
- Sec. 82.003. ERRORS AND OMISSIONS INSURANCE
- Sec. 82.004. PREMIUMS
- Sec. 82.005. APPOINTMENT, OATH, AND POWERS OF DEPUTY CLERK
- Sec. 82.006. RESIDENCE AT COUNTY SEAT

CHAPTER 82. COUNTY CLERK

Sec. 82.001. SURETY BOND AND OATH OF COUNTY CLERK. (a) The county clerk must, before beginning to perform the duties of office, execute a bond either with four or more good and sufficient sureties or with a surety company authorized to do business in the state as a surety.

(b) The bond must be:

- (1) approved by the commissioners court;
- (2) made payable to the county;
- (3) conditioned that the clerk will faithfully perform the duties of office; and

(4) in an amount equal to at least 20 percent of the maximum amount of fees collected in any year during the term of office preceding the term for which the bond is to be given, but not less than \$5,000 or more than \$500,000.

(c) The clerk must take and subscribe the official oath, which must be endorsed on the bond. The bond and oath shall be recorded in the county clerk's office and deposited in the office of the clerk of the district court.

(d) An injured party in a suit to which the county is a party may use and enter in the record in the suit a certified copy of the bond. (V.A.C.S. Art. 1937, Secs. 1, 3 (part).)

Sec. 82.002. SURETY BOND ON DEPUTY CLERKS AND EMPLOYEES. (a) If the county clerk has only a single deputy clerk, the county clerk shall execute a surety bond to cover the deputy. The county clerk shall execute a schedule surety bond or a blanket surety bond to cover all the deputy clerks, if there is more than one, and all other employees of the office.

(b) The bond covering a deputy clerk or an employee must be conditioned in the same manner and must be for the same amount as the bond for the county clerk. The bond must be made payable to the county for the use and benefit of the county clerk. (V.A.C.S. Art. 1937, Secs. 2, 3 (part).)

Sec. 82.003. ERRORS AND OMISSIONS INSURANCE. (a) The county clerk shall obtain an insurance policy covering the clerk and each deputy clerk against liability incurred through errors and omissions in the performance of their official duties.

(b) The policy must be in an amount equal to the maximum amount of fees collected in any year during the term of office preceding the term for which the policy is to be obtained. However, the policy must be in an amount of at least \$10,000 but is not required to exceed \$500,000. (V.A.C.S. Art. 1937, Sec. 4.)

Sec. 82.004. PREMIUMS. The commissioners court of a county shall pay out of the general fund of the county the premiums for a bond or insurance policy required by this chapter. (V.A.C.S. Art. 1937, Sec. 5.)

Sec. 82.005. APPOINTMENT, OATH, AND POWERS OF DEPUTY CLERK. (a) An appointment by the county clerk of a deputy clerk must be in writing, be signed by the county clerk, and bear the seal of the county court. The county clerk shall record the appointment in the county clerk's office and shall deposit it in the office of the district clerk.

(b) A deputy clerk must take the official oath.

(c) A deputy clerk acts in the name of the county clerk and may perform all official acts that the county clerk may perform. (V.A.C.S. Art. 1938 (part).)

Sec. 82.006. RESIDENCE AT COUNTY SEAT. If the county clerk does not reside at the county seat, the clerk shall have a deputy clerk who resides there. (V.A.C.S. Art. 1938 (part).)

CHAPTER 83. COUNTY TREASURER

Sec. 83.001. ELECTION

Sec. 83.002. BOND

Sec. 83.003. CONTINUING EDUCATION

Sec. 83.004. REMOVAL FROM OFFICE; FILLING OF VACANCY

Sec. 83.005. APPOINTMENT OF PERSON TO ACT IN TREASURER'S PLACE IN COUNTIES OF MORE THAN 190,000 POPULATION

Sec. 83.006. FUNDING OF TREASURER'S OFFICE

CHAPTER 83. COUNTY TREASURER

Sec. 83.001. ELECTION. The county treasurer is elected at each general election in which the office of governor is to be filled for a full term. (V.A.C.S. Art. 1703.)

Sec. 83.002. BOND. (a) The county treasurer, before entering upon the duties of office and within 20 days after the date the certificate of election is received, must execute a bond that must be approved by the commissioners court and made payable to the county judge in an amount established by the commissioners court. The bond must be conditioned that the treasurer will:

- (1) faithfully execute the duties of office;
- (2) remit according to law all funds received as county treasurer; and
- (3) render an account of all funds received to the commissioners court at each regular term of the court.

(b) The commissioners court may, at any time, require the treasurer to obtain a new or additional bond if the court considers the existing bond insufficient or doubtful. The bond must be acquired within 20 days after the date notice of the requirement has been given by the commissioners court. (V.A.C.S. Arts. 1704, 1705, 1706 (part), 1709a, Sec. 3 (part).)

Sec. 83.003. CONTINUING EDUCATION. (a) Within two years after the date on which a person first takes office as county treasurer, the county treasurer must successfully complete a course of instruction in the performance of the duties of county treasurer.

(b) A county treasurer must successfully complete a continuing education course in the performance of the duties of county treasurer at least one time in each 24-month period.

(c) For purposes of removal under Subchapter B, Chapter 87, "incompetency" in the case of a county treasurer includes the failure to complete a course in accordance with this section.

(d) A course required by this section must include at least 20 classroom hours of instruction in an accredited public institution of higher education. (V.A.C.S. Art. 1705a; Art. 5972, Sec. (c).)

Sec. 83.004. REMOVAL FROM OFFICE; FILLING OF VACANCY. (a) If a person elected to the office of county treasurer fails to provide an adequate bond as required by Section 83.002(a) and to take the official oath within 20 days after the date the certificate of election is received, the county judge shall declare the office vacant.

(b) A county treasurer may be removed from office, in the manner provided by law, for failing to obtain a new or additional surety bond when required to do so under Section 83.002(b).

(c) A vacancy in the office of county treasurer shall be filled as provided by Section 87.041. The person appointed to fill the vacancy shall, before entering upon the discharge of the duties of office and within 20 days after the date notice of the appointment is received, take the official oath and obtain the same surety bond as required by Section 83.002(a) for an elected county treasurer.

(d) A person vacating the office of county treasurer shall deliver to the successor to the office any money, securities, documents, books, and other property in the person's possession that belong to the county as well as any documents and books in the person's possession that are for the use of the county. The person shall perform any other acts as the commissioners court may require. (V.A.C.S. Arts. 1706 (part), 1708, 1712.)

Sec. 83.005. APPOINTMENT OF PERSON TO ACT IN TREASURER'S PLACE IN COUNTIES OF MORE THAN 190,000 POPULATION. (a) In a county with a population of more than 190,000, the county treasurer may appoint a person, subject to the approval of the commissioners court, to act in the treasurer's place. In a county with a population of 190,001 to 354,999, the appointed person may act in the treasurer's place only when the treasurer is absent, unavoidably detained, or incapacitated. In a county with a population of 355,000 or more, the appointed person may act in the treasurer's place only if the treasurer is absent from the county, unavoidably detained, incapacitated, or unable to act.

(b) The treasurer shall provide the commissioners court with the details justifying an appointment under this section. The commissioners court may require proof of any detail provided by the treasurer.

(c) The appointed person may act for the treasurer only after:

- (1) the commissioners court approves the appointment;
- (2) the appointment is recorded in the minutes of the court; and
- (3) the appointed person gives a surety bond in favor of the county and the county treasurer, as their interests may appear, in an amount determined by the commissioners court.

(d) If, in a county with a population of 355,000 or more, the treasurer appoints a person other than a regularly employed assistant, the appointed person may not receive any compensation from the county. (V.A.C.S. Art. 3912e, Sec. 19(e) (part); Art. 3912e-2 (part); Art. 3912e-4a, Secs. 1, 2 (part); Art. 3912e-4b, Sec. 1.)

Sec. 83.006. FUNDING OF TREASURER'S OFFICE. The commissioners court may provide funds for adequate personnel and supplies that enable the county treasurer to perform the duties of office. (V.A.C.S. Art. 1709 (part).)

CHAPTER 84. COUNTY AUDITOR

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 84.001. EFFECT OF REFERENCE TO "DISTRICT JUDGES"; MAJORITY VOTE REQUIRED
- Sec. 84.002. APPOINTMENT OF COUNTY AUDITOR
- Sec. 84.003. PROCEDURE FOR APPOINTMENT
- Sec. 84.004. TERM
- Sec. 84.005. PROCEDURE FOR APPOINTMENT AND TERM IN COUNTY WITH POPULATION OF TWO MILLION OR MORE
- Sec. 84.006. QUALIFICATIONS
- Sec. 84.007. BOND AND OATH
- Sec. 84.008. JOINT EMPLOYMENT OF COUNTY AUDITOR IN COUNTIES WITH POPULATION OF LESS THAN 25,000
- Sec. 84.009. REMOVAL

[Sections 84.010–84.020 reserved for expansion]

SUBCHAPTER B. ASSISTANTS

- Sec. 84.021. ASSISTANTS

[Sections 84.022–84.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 84.901. SUPPLIES
- Sec. 84.902. AUDITOR TO KEEP CERTAIN HOSPITAL RECORDS IN COUNTY WITH POPULATION OF 190,001 TO 200,000

CHAPTER 84. COUNTY AUDITOR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 84.001. EFFECT OF REFERENCE TO "DISTRICT JUDGES"; MAJORITY VOTE REQUIRED. (a) In this chapter, a reference to district judges means the district judges having jurisdiction in the county.

(b) A majority vote of the district judges is required to perform an act required or permitted of the district judges unless the law specifically provides otherwise. If only one district judge has jurisdiction in the county, the judge may act alone. (New.)

Sec. 84.002. APPOINTMENT OF COUNTY AUDITOR. (a) In a county with a population of 10,000 or more, the district judges shall appoint a county auditor.

(b) In a county with a population of less than 10,000:

- (1) the district judges may appoint a county auditor if the judges determine that the county's financial circumstances warrant the appointment; and

(2) the district judges shall appoint a county auditor if:

(A) the commissioners court finds that a county auditor is necessary to carry out county business and enters an order in its minutes stating the reason for this finding;

(B) the order is certified to the district judges; and

(C) the district judges find the reason stated by the commissioners court to be good and sufficient. (V.A.C.S. Art. 1645, Secs. 1 (part), 2 (part); Art. 1646 (part).)

Sec. 84.003. **PROCEDURE FOR APPOINTMENT.** (a) The district judges shall appoint the county auditor at a special meeting held for that purpose. If a majority of the judges cannot agree on the selection of a person as county auditor, one of the judges shall certify that fact to the governor, who shall appoint another district judge to act and vote with the district judges to select the county auditor.

(b) The clerk of the district court shall record the judges' action in the minutes of the court and certify it to the commissioners court. The commissioners court shall record in its minutes the judges' action and an order directing the payment of the auditor's salary. (V.A.C.S. Art. 1647.)

Sec. 84.004. **TERM.** The term of office of a county auditor is two years. (V.A.C.S. Art. 1645, Secs. 1 (part), 2 (part); Art. 1645a-10, Sec. 2 (part); Art. 1646b, Sec. 1 (part).)

Sec. 84.005. **PROCEDURE FOR APPOINTMENT AND TERM IN COUNTY WITH POPULATION OF TWO MILLION OR MORE.** (a) In a county with a population of two million or more, the county auditor may be appointed only at a meeting called for that purpose and, to be appointed, a candidate must receive at least a two-thirds vote of the district judges. A judge must be present at the meeting for his vote to be counted. Each judge may nominate any number of candidates for the office.

(b) The term of office of the county auditor begins on January 1 of each odd-numbered year. (V.A.C.S. Art. 1645a-10, Secs. 1, 2 (part).)

Sec. 84.006. **QUALIFICATIONS.** (a) A county auditor must be:

(1) a competent accountant with at least two years' experience in auditing and accounting;

(2) thoroughly competent in public business details;

(3) a citizen of the county with at least two years' residence in the county preceding the date of appointment; and

(4) a person of unquestionably good moral character and intelligence.

(b) Before making an appointment the district judges shall carefully investigate and consider the person's qualifications. If a qualified citizen of the county is not available, the district judges may appoint a qualified citizen from another county. (V.A.C.S. Art. 1648.)

Sec. 84.007. **BOND AND OATH.** (a) Before taking office and within 20 days after the date of a county auditor's appointment, the county auditor must execute a bond. The bond must be:

(1) a good and sufficient surety bond or a bond secured by two or more good and sufficient personal sureties;

(2) in the amount of \$5,000 or more;

(3) payable to the district judges;

(4) conditioned on the faithful performance of the duties of county auditor; and

(5) approved by the district judges.

(b) The county auditor must take the official oath and a written oath that lists the positions of public or private trust previously held and the length of service in each of those positions and that states:

(1) that he has the qualifications required by this chapter; and

(2) that he will not be personally interested in a contract with the county. (V.A.C.S. Art. 1645, Sec. 2 (part); Art. 1646 (part); Art. 1646b, Sec. 1 (part); Art. 1649.)

Sec. 84.008. JOINT EMPLOYMENT OF COUNTY AUDITOR IN COUNTIES WITH POPULATION OF LESS THAN 25,000. (a) The commissioners courts of two or more counties that each have a population of less than 25,000 may agree to jointly employ and compensate a county auditor.

(b) After the commissioners courts have determined that an auditor is necessary in the disposition of county business and after the agreement is made, the commissioners court of each county shall enter in its minutes an order stating its determination of the necessity and shall certify the order to the district judges of the county. If the judges find the orders good and sufficient, they shall appoint the county auditor by an order recorded in the minutes of the district courts of all counties party to the agreement. The district clerk of each county shall certify the order to the commissioners court of that county, who shall record the order in its minutes.

(c) The county auditor is appointed for a term beginning on the day of appointment.

(d) In matters required by this section to be done by the district judges, a majority vote of the judges controls. (V.A.C.S. Art. 1646b, Sec. 1 (part).)

Sec. 84.009. REMOVAL. (a) A county auditor may be removed from office and a successor appointed if, after due investigation by the district judges who appointed the auditor, it is proven that the auditor:

(1) has committed official misconduct; or

(2) is incompetent to faithfully discharge the duties of the office of county auditor.

(b) The district judges who appointed a county auditor under Section 84.002(b)(2) or Section 84.008 may discontinue the services of the auditor after the expiration of one year after the date of the appointment if it is clearly shown that the auditor is not necessary and the auditor's services are not commensurate with the auditor's salary. (V.A.C.S. Art. 1646 (part); Art. 1646b, Sec. 1 (part); Art. 1676.)

[Sections 84.010–84.020 reserved for expansion]

SUBCHAPTER B. ASSISTANTS

Sec. 84.021. ASSISTANTS. (a) From time to time the county auditor may certify to the district judges a list stating the number of assistants to be appointed, the name, duties, qualifications, and experience of each appointee, and the salary to be paid each appointee. The district judges, after careful consideration of the application for the appointment of the assistants and after inquiry concerning the appointees' qualifications, the positions sought to be filled, and the reasonableness of the requested salaries, shall prepare a list of the appointees that the judges approve and the salary to be paid each. The judges shall certify this list to the commissioners court, which shall order the salaries to be paid on the performance of services and shall appropriate an adequate amount of money for this purpose.

(b) If an emergency exists, the county auditor shall recommend the appointment of temporary assistants, and the district judges shall determine the number, salaries, and duration of employment of the assistants.

(c) An assistant must take the usual oath of office for faithful performance of duty. The county auditor may require an assistant to give a bond and may determine the terms of the bond. The bond must run in favor of the county and the county auditor as their interests indicate. The county shall pay for the bond.

(d) If only one assistant is appointed, the assistant, during the absence or unavoidable detention of the county auditor, may perform the duties required by law of the county auditor. If more than one assistant is appointed, the county auditor may designate the assistant to perform those duties during the absence or unavoidable detention of the county auditor.

(e) The county auditor may discharge an assistant. The district judges approving an appointment have the right annually to withdraw the approval and change the number of assistants permitted. (V.A.C.S. Art. 1650 (part); Art. 3912e–4d, Sec. 9 (part).)

[Sections 84.022–84.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 84.901. SUPPLIES. A county auditor may purchase, at the county's expense and in the manner provided by law, necessary ledgers, books, records, blank forms, stationery, equipment, telephone service, and postage. (V.A.C.S. Art. 1650 (part).)

Sec. 84.902. AUDITOR TO KEEP CERTAIN HOSPITAL RECORDS IN COUNTY WITH POPULATION OF 190,001 TO 200,000. If, in a county with a population of 190,001 to 200,000, the financial records of a city and county hospital located in the county must be kept, the county auditor shall keep the records. If reports concerning that hospital's financial records must be made to the governing bodies of the municipality and county, the county auditor shall make the reports. (V.A.C.S. Art. 1645f.)

CHAPTER 85. SHERIFF

SUBCHAPTER A. SHERIFF AND SHERIFF'S PERSONNEL

- Sec. 85.001. OATH AND BOND
- Sec. 85.002. NEW BOND REQUIREMENT; REMOVAL
- Sec. 85.003. DEPUTIES
- Sec. 85.004. RESERVE DEPUTIES
- Sec. 85.005. GUARDS; PENALTY
- Sec. 85.006. COUNTY POLICE FORCE IN COUNTIES OF 210,000 OR MORE

[Sections 85.007–85.020 reserved for expansion]

SUBCHAPTER B. MISCELLANEOUS POWERS AND DUTIES

- Sec. 85.021. EXECUTION OF PROCESS; PENALTY
- Sec. 85.022. EXECUTION OF LEGISLATIVE PROCESS; PENALTY
- Sec. 85.023. UNFINISHED BUSINESS

CHAPTER 85. SHERIFF

SUBCHAPTER A. SHERIFF AND SHERIFF'S PERSONNEL

Sec. 85.001. OATH AND BOND. (a) A person elected as sheriff, before beginning to perform the duties of office, must execute a bond with two or more good and sufficient sureties.

(b) The bond must be:

- (1) approved by the commissioners court of the county;
- (2) made payable to the governor;
- (3) in an amount established by the commissioners court, but not less than \$5,000 or more than \$30,000; and

(4) conditioned that the sheriff will:

- (A) faithfully perform the duties of office established by law;
- (B) account for and pay to the person authorized by law to receive them the fines, forfeitures, and penalties the sheriff collects for the use of the state or a county;
- (C) execute and return when due the process and precepts lawfully directed to the sheriff, and pay to the person to whom they are due or to the person's attorney the funds collected by virtue of the process or precept; and
- (D) pay to the county any funds illegally paid, voluntarily or otherwise, to the sheriff from county funds.

(c) The sheriff must take and subscribe the official oath, which, together with the certificate of the officer administering the oath, must be endorsed on the bond.

(d) A person elected or appointed as sheriff who has executed the bond and taken the official oath may enter at once on the duties of office, and that person's acts shall be as valid under law before the receipt of a commission as after the receipt of a commission.

(e) The bond is not void on the first recovery, but may be sued on from time to time in the name of any injured person until the entire amount of the bond is recovered.

(f) A sheriff or deputy sheriff is not liable on an official bond, and is not personally liable, for having received or confined a prisoner delivered or surrendered to the sheriff or deputy by a state ranger.

(g) If a person elected as sheriff does not, for any reason, execute the bond and take the official oath within 20 days after the date the person receives the notice of election, the office of sheriff is considered vacant. (V.A.C.S. Arts. 6866, 6867.)

Sec. 85.002. NEW BOND REQUIREMENT; REMOVAL. (a) If a surety of the sheriff dies, moves permanently from the state, becomes insolvent, or is released from liability in accordance with law or if the commissioners court considers the sheriff's bond insufficient, the commissioners court shall cite the sheriff to appear at a time named in the citation, after the 10th day but on or before the 30th day after the date of issuance of the citation, and require the sheriff to execute a new bond with good and sufficient security.

(b) If the sheriff neglects or refuses to appear and execute the bond on or before the designated time, that person may not exercise the functions of office and shall be removed from office by the district judge in the manner prescribed by law for the removal of county officers. (V.A.C.S. Art. 6868.)

Sec. 85.003. DEPUTIES. (a) The appointment of a deputy sheriff must be in writing.

(b) A person appointed as a deputy, before beginning to perform the duties of office, must take and subscribe the official oath, which, together with the certificate of the officer administering the oath, must be endorsed on the appointment. The appointment and oath shall be deposited and recorded in the county clerk's office. A list of the appointments shall be posted in a conspicuous place in that office.

(c) A deputy serves at the pleasure of the sheriff. However, the appointment of a deputy is revoked on indictment of the deputy for a felony.

(d) A sheriff is responsible for the official acts of a deputy and may require that a deputy execute a bond or other security. A sheriff has the same remedies against a deputy and the deputy's sureties as any other person has against the sheriff and the sheriff's sureties.

(e) A deputy may perform the acts and duties of the deputy's principal. (V.A.C.S. Arts. 6869 (part), 6870.)

Sec. 85.004. RESERVE DEPUTIES. (a) The commissioners court of a county may authorize the sheriff to appoint reserve deputy sheriffs who may be called on by the sheriff to serve as peace officers during the actual discharge of their official duties. The commissioners court may limit the number of reserve deputies that may be appointed.

(b) A reserve deputy serves at the discretion of the sheriff and may be called into service if the sheriff considers it necessary to have additional officers to preserve the peace and enforce the law.

(c) A reserve deputy, before beginning to perform the duties of office and at the time of appointment, must file an oath and execute and file a bond in the amount of \$2,000 payable to the sheriff. The oath and bond shall be filed with the county clerk.

(d) A reserve deputy on active duty at the call of the sheriff and actively engaged in assigned duties has the same rights, privileges, and duties as any other peace officer of the state.

(e) The sheriff of a county that borders the Gulf of Mexico may organize some of the reserve deputies to serve as marine reserve deputies and lifeguards for beach and water safety purposes and other related functions as the sheriff may determine. A reserve deputy performing functions under this subsection is subject to the laws of this state that relate to reserve deputies except that they may not carry firearms in the performance of their duties.

(f) An organization formed under Subsection (e) may include both paid and unpaid deputies and reserve deputies. The organization may accept contributions and gifts from foundations, individuals, corporations, and governmental entities, including appropriations by the state on a direct or matching fund basis, to assist the county in providing water

safety programs in the interest of the health, safety, and welfare of persons using the coastal water of this state.

(g) The county or sheriff is not liable, because of the appointment of a reserve deputy, if the reserve deputy incurs personal injury while serving in an official capacity. (V.A.C.S. Art. 6869.1, Secs. 1(a) (part), (b) (part), (c) (part), (e) (part), (f) (part), (g), (h); Sec. 2 (part).)

Sec. 85.005. GUARDS; PENALTY. (a) The sheriff may, with the approval of the commissioners court or, in the case of an emergency, with the approval of the county judge, employ a sufficient number of guards to ensure the safekeeping of prisoners and the security of a jail.

(b) At least one man shall be on guard on each floor of a jail where male prisoners are kept, and at least one matron shall be on guard on each floor where female prisoners are kept. At least two employees shall be on guard in the main office of the jail at all times.

(c) In case of an emergency, a guard is subject to being called to duty by the sheriff.

(d) A person charged with the responsibility of enforcing this section commits an offense if the person violates the section. An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200. (V.A.C.S. Arts. 6871 (part), 6871a.)

Sec. 85.006. COUNTY POLICE FORCE IN COUNTIES OF 210,000 OR MORE. (a) In a county with a population of 210,000 or more, the sheriff may appoint a county police force. The commissioners court shall determine the number, which must be at least six, of police officers to be appointed. The sheriff shall appoint one of the officers as chief of the county police. The appointments are subject to approval by the commissioners court. The sheriff may, subject to approval by the commissioners court, terminate the employment of an officer.

(b) The sheriff shall deputize each police officer appointed under this section. Each officer has the authority of a deputy sheriff, and all laws of the state applicable to deputy sheriffs apply to the officer to the same extent that they apply to deputy sheriffs unless the law conflicts with this section.

(c) A police officer appointed under this section shall patrol, by automobile or motorcycle furnished by the officer, the highways of the county located outside the corporate limits of the county seat. The officer shall devote all time spent on duty to performing that service and to matters related to that service. The officer shall perform all duties in accordance with rules adopted by the commissioners court. (V.A.C.S. Art. 6869d, Secs. 1, 2, 3 (part).)

[Sections 85.007–85.020 reserved for expansion]

SUBCHAPTER B. MISCELLANEOUS POWERS AND DUTIES

Sec. 85.021. EXECUTION OF PROCESS; PENALTY. (a) The sheriff shall execute all process and precepts directed to the sheriff by legal authority and shall return the process or precept to the proper court on or before the date the process or precept is returnable.

(b) The sheriff commits an offense if the sheriff:

- (1) fails to return a process or precept as required by Subsection (a); or
- (2) makes a false return.

(c) An offense under this section is punishable by the court to which the process is returnable, as for contempt, by a fine of not more than \$100. A fine collected under this section shall be deposited in the county treasury.

(d) The sheriff is liable for all damages sustained by a person by reason of an offense committed by the sheriff under this section. (V.A.C.S. Art. 6873.)

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Sec. 85.022. EXECUTION OF LEGISLATIVE PROCESS; PENALTY. (a) The sheriff shall execute subpoenas and other process directed to the sheriff that are issued by the speaker of the house of representatives, the president of the senate, or the chairman of a committee of either house of the legislature.

(b) Failure to execute the subpoena or other process under Subsection (a) carries the same penalties as failure to execute process issued by a court.

(c) If the sheriff performs services under this section, the sheriff shall receive the fees prescribed by law for similar services rendered in the courts. The fee shall be paid on the certificate of the authority issuing the process. (V.A.C.S. Art. 6874.)

Sec. 85.023. UNFINISHED BUSINESS. If a sheriff vacates the office for any reason, all unfinished business shall be transferred to the succeeding sheriff and completed in the same manner as if the successor had begun the business. (V.A.C.S. Art. 6877 (part).)

CHAPTER 86. CONSTABLE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 86.001. ELIGIBILITY TO SERVE AFTER BOUNDARY CHANGE

Sec. 86.002. OATH; BOND

Sec. 86.003. NEW BOND; REMOVAL

[Sections 86.004–86.010 reserved for expansion]

SUBCHAPTER B. DEPUTIES

Sec. 86.011. APPOINTMENT OF DEPUTY CONSTABLE

Sec. 86.012. RESERVE DEPUTY CONSTABLES

[Sections 86.013–86.020 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 86.021. GENERAL POWERS AND DUTIES

Sec. 86.022. POWER TO SUMMON RESIDENT ASSISTANCE

Sec. 86.023. COLLECTION LIABILITY

Sec. 86.024. FAILURE TO EXECUTE PROCESS

Sec. 86.025. UNFINISHED BUSINESS

CHAPTER 86. CONSTABLE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 86.001. ELIGIBILITY TO SERVE AFTER BOUNDARY CHANGE. A person who has served as the constable of a precinct for 10 or more consecutive years before a change is made in the boundaries of the precinct is not ineligible for reelection in the precinct because of residence outside the precinct if the constable's residence is within the boundaries of the precinct as they existed before the change. (V.A.C.S. Art. 6878, Sec. 2.)

Sec. 86.002. OATH; BOND. (a) Before entering on the duties of office, a person who is elected to the office of constable must execute a bond with two or more good and sufficient sureties. The bond must be payable to the governor and the governor's successors in office and conditioned that the constable will faithfully perform the duties imposed by law. The bond must be approved by the commissioners court of the county. The commissioners court shall set the bond in an amount of not less than \$500 or more than \$1,500.

(b) A person who is elected constable must also take and sign the constitutional oath of office. The oath shall be endorsed on the bond, together with the certificate of the

officer who administers the oath. The bond and oath must be deposited and recorded in the office of the clerk of the county court.

(c) The bond is not void on the first recovery but may be sued on from time to time in the name of an injured party until the whole amount of the bond is recovered.

(d) A person who is elected or appointed to the office of constable and who has given the necessary bond and taken the oath of office may immediately perform the duties of the office. The acts of the constable are as valid in law as if the constable were commissioned.

(e) If a person who is elected constable neglects or refuses to give the bond or to take the oath within 20 days after the date the person is notified of the person's election, the office becomes vacant. (V.A.C.S. Arts. 6881, 6882, 6883.)

Sec. 86.003. NEW BOND; REMOVAL. (a) If any of the sureties of a constable dies, permanently moves from this state, becomes insolvent, or is released from liability as provided by law or if the commissioners court determines that the bond of the constable is insufficient, the court shall issue a citation that requires the constable to appear at a time set in the citation, after the 10th day but on or before the 30th day after the date the citation is issued, in order to execute a new bond with good and sufficient surety.

(b) If the constable neglects or refuses to appear to execute the bond at the designated time, the constable shall cease to perform the duties of the office and shall be removed from office by the judge of the district court in the manner provided by law for the removal of county officers. (V.A.C.S. Art. 6884.)

[Sections 86.004–86.010 reserved for expansion]

SUBCHAPTER B. DEPUTIES

Sec. 86.011. APPOINTMENT OF DEPUTY CONSTABLE. (a) An elected constable who desires to appoint a deputy must apply in writing to the commissioners court of the county and show that it is necessary to appoint a deputy in order to properly handle the business of the constable's office that originates in the constable's precinct. The application must state the name of the proposed deputy. The commissioners court shall approve and confirm the appointment of the deputy only if the commissioners court determines that the constable needs a deputy to handle the business originating in the precinct.

(b) Each deputy constable must qualify in the manner provided for deputy sheriffs.

(c) The constable is responsible for the official acts of each deputy of the constable. The constable may require a deputy to post a bond or security. A constable may exercise any remedy against a deputy or the deputy's surety that a person may exercise against the constable or the constable's surety.

(d) A person commits an offense if the person:

(1) serves as a deputy constable and the person has not been appointed as provided by Subsection (a); or

(2) is a constable and issues a deputyship without the consent and approval of the commissioners court.

(e) An offense under Subsection (d) is punishable by a fine of not less than \$50 or more than \$1,000. (V.A.C.S. Arts. 6879a, 6879b.)

Sec. 86.012. RESERVE DEPUTY CONSTABLES. (a) The commissioners court of a county may authorize a constable of the county to appoint reserve deputy constables. A reserve deputy constable may serve as a peace officer during the actual discharge of the reserve deputy constable's official duties. The commissioners court may limit the number of reserve deputy constables that a constable may appoint.

(b) A reserve deputy constable serves at the discretion of the constable and may be called into service at any time that the constable considers it necessary to have additional officers to preserve the peace and enforce the law.

(c) A reserve deputy constable must take the official oath and must execute a bond in the amount of \$2,000, payable to the constable. The oath and bond must be filed with the county clerk of the county in which the appointment is made. The oath and bond must be given before the reserve deputy constable's entry on duty and simultaneously with the officer's appointment.

(d) While actively engaged in an assigned duty at the call of the constable, a reserve deputy constable is vested with the same rights, privileges, and duties of any other peace officer in this state.

(e) The county and the constable do not incur any liability by reason of the appointment of a reserve deputy constable if the reserve deputy constable incurs a personal injury while serving in that capacity. (V.A.C.S. Art. 6869.1, Secs. 1(a) (part), (b) (part), (c) (part), (e) (part), (f) (part); Sec. 2 (part).)

[Sections 86.013–86.020 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 86.021. GENERAL POWERS AND DUTIES. (a) A constable shall execute and return as provided by law each process, warrant, and precept that is directed to the constable and is delivered by a lawful officer.

(b) A constable may execute any civil or criminal process throughout the county in which the constable's precinct is located and in other locations as provided by the Code of Criminal Procedure or by any other law.

(c) The constable shall attend each justice court held in the precinct. (V.A.C.S. Arts. 6885, 6889.)

Sec. 86.022. POWER TO SUMMON RESIDENT ASSISTANCE. (a) If a constable encounters resistance in the execution of any lawful process or in the arrest of an offender, the constable may call for assistance any resident of the county who is convenient.

(b) A person who fails or refuses to obey a call for assistance may, on the motion of the constable, be fined by a justice of the peace in the manner provided for contempt. The amount of the fine may not exceed \$10. The person who is accused of not providing assistance must be given three days' notice of the motion. (V.A.C.S. Art. 6886.)

Sec. 86.023. COLLECTION LIABILITY. If, for collection, a constable receives a bond, bill, note, or account from any person and the constable gives a receipt in an official capacity for the instrument or account, the constable and the constable's sureties are liable under the constable's bond for the amount collected if the constable fails to pay the amount on demand to the person for whom the constable made the collection. (V.A.C.S. Art. 6888.)

Sec. 86.024. FAILURE TO EXECUTE PROCESS. (a) If a constable fails or refuses to execute and return according to law a process, warrant, or precept that is lawfully directed and delivered to the constable, the constable shall be fined for contempt before the court that issued the process, warrant, or precept on the motion of the person injured by the failure or refusal.

(b) The fine shall be set at not less than \$10 or more than \$100, with costs. The fine shall be for the benefit of the injured person. The constable must be given 10 days' notice of the motion. (V.A.C.S. Art. 6887.)

Sec. 86.025. UNFINISHED BUSINESS. If a constable vacates the office for any reason, all unfinished business shall be transferred to the succeeding constable and completed in the same manner as if the successor had begun the business. (V.A.C.S. Art. 6877 (part).)

CHAPTER 87. REMOVAL OF COUNTY OFFICERS FROM OFFICE;
FILLING OF VACANCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 87.001. NO REMOVAL FOR PRIOR ACTION

[Sections 87.002–87.010 reserved for expansion]

SUBCHAPTER B. REMOVAL BY PETITION AND TRIAL

- Sec. 87.011. DEFINITIONS
- Sec. 87.012. OFFICERS SUBJECT TO REMOVAL
- Sec. 87.013. GENERAL GROUNDS FOR REMOVAL
- Sec. 87.014. GROUNDS: FAILURE TO GIVE BOND
- Sec. 87.015. PETITION FOR REMOVAL
- Sec. 87.016. CITATION OF OFFICER
- Sec. 87.017. SUSPENSION PENDING TRIAL; TEMPORARY APPOINTEE
- Sec. 87.018. TRIAL
- Sec. 87.019. APPEAL

[Sections 87.020–87.030 reserved for expansion]

SUBCHAPTER C. REMOVAL BY CRIMINAL CONVICTION

- Sec. 87.031. IMMEDIATE REMOVAL
- Sec. 87.032. APPEAL; SUSPENSION

[Sections 87.033–87.040 reserved for expansion]

SUBCHAPTER D. FILLING OF VACANCIES

- Sec. 87.041. VACANCIES FILLED BY APPOINTMENT OF COMMISSIONERS COURT
- Sec. 87.042. COUNTY COMMISSIONER VACANCY

CHAPTER 87. REMOVAL OF COUNTY OFFICERS FROM OFFICE;
FILLING OF VACANCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 87.001. NO REMOVAL FOR PRIOR ACTION. An officer may not be removed under this chapter for an act the officer committed before election to office. (V.A.C.S. Art. 5986.)

[Sections 87.002–87.010 reserved for expansion]

SUBCHAPTER B. REMOVAL BY PETITION AND TRIAL

Sec. 87.011. DEFINITIONS. In this subchapter:

- (1) "District attorney" includes a criminal district attorney.
- (2) "Incompetency" means:
 - (A) gross ignorance of official duties;
 - (B) gross carelessness in the discharge of those duties; or
 - (C) unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.
- (3) "Official misconduct" means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an

officer to perform a duty imposed on the officer by law. (V.A.C.S. Arts. 5972, Sec. (a) (part), 5973, 5985 (part).)

Sec. 87.012. OFFICERS SUBJECT TO REMOVAL. The district judge may, under this subchapter, remove from office:

- (1) a district attorney;
- (2) a county attorney;
- (3) a county judge;
- (4) a county commissioner;
- (5) a county clerk;
- (6) a district clerk;
- (7) a district and county clerk;
- (8) a county treasurer;
- (9) a sheriff;
- (10) a county surveyor;
- (11) a county tax assessor-collector;
- (12) a constable;
- (13) an inspector of hides and animals;
- (14) a justice of the peace; and
- (15) a county officer, not otherwise named by this section, whose office is created under the constitution or other law of this state. (V.A.C.S. Art. 5970 (part).)

Sec. 87.013. GENERAL GROUNDS FOR REMOVAL. (a) An officer may be removed for:

- (1) incompetency;
- (2) official misconduct; or
- (3) intoxication on or off duty caused by drinking an alcoholic beverage.

(b) Intoxication is not a ground for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state. (V.A.C.S. Art. 5970 (part).)

Sec. 87.014. GROUNDS: FAILURE TO GIVE BOND. A county officer who is required by law to give an official bond may be removed under this subchapter if the officer:

- (1) fails to execute the bond within the time prescribed by law; or
- (2) does not give a new bond, or an additional bond or security, if required by law to do so. (V.A.C.S. Art. 5975.)

Sec. 87.015. PETITION FOR REMOVAL. (a) A proceeding for the removal of an officer is begun by filing a written petition for removal in a district court of the county in which the officer resides. However, a proceeding for the removal of a district attorney is begun by filing a written petition in a district court of:

- (1) the county in which the attorney resides; or
- (2) the county where the alleged cause of removal occurred, if that county is in the attorney's judicial district.

(b) Any resident of this state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county

may file the petition. At least one of the parties who files the petition must swear to it at or before the filing.

(c) The petition must be addressed to the district judge of the court in which it is filed. The petition must set forth the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with as much certainty as the nature of the case permits. (V.A.C.S. Arts. 5971 (part), 5976, 5977 (part), 5984.)

Sec. 87.016. CITATION OF OFFICER. (a) After a petition for removal is filed, the person filing the petition shall apply to the district judge in writing for an order requiring a citation and a certified copy of the petition to be served on the officer.

(b) If the application for the order is made during the term of the court, action may not be taken on the petition until the order is granted and entered in the minutes of the court. If the application is made to the judge during the vacation of the court, the judge shall indicate on the petition the action taken and shall have the action entered in the minutes of the court at the next term.

(c) If the judge refuses to issue the order for citation, the petition shall be dismissed at the cost of the person filing the petition. The person may not take an appeal or writ of error from the judge's decision. If the judge grants the order for citation, the clerk shall issue the citation with a certified copy of the petition. The clerk may require the person filing the petition to post security for costs in the manner provided for other cases.

(d) The citation shall order the officer to appear and answer the petition on a date, fixed by the judge, after the fifth day after the date the citation is served. The time is computed as it is in other suits. (V.A.C.S. Arts. 5979, 5980.)

Sec. 87.017. SUSPENSION PENDING TRIAL; TEMPORARY APPOINTEE. (a) After the issuance of the order requiring citation of the officer, the district judge may temporarily suspend the officer and may appoint another person to perform the duties of the office.

(b) The judge may not suspend the officer until the person appointed to serve executes a bond, with at least two good and sufficient sureties, in an amount fixed by the judge and conditioned as required by the judge. The bond shall be used to pay damages and costs to the suspended officer if the grounds for removal are found at trial to be insufficient or untrue. In an action to recover on the bond it is necessary to allege and prove that the temporary appointee actively aided and instigated the filing and prosecution of the removal action. The suspended officer must also serve written notice on the temporary appointee and the appointee's bondsman, within 90 days after the date the bond is executed, stating that the officer intends to hold them liable on the bond and stating the grounds for that liability.

(c) If the final judgment establishes the officer's right to the office, the county shall pay the officer from the general fund of the county an amount equal to the compensation received by the temporary appointee. (V.A.C.S. Arts. 5982, 5982-b.)

Sec. 87.018. TRIAL. (a) Officers may be removed only following a trial by jury.

(b) The trial for removal of an officer and the proceedings connected with the trial shall be conducted as much as possible in accordance with the rules and practice of the court in other civil cases, in the name of the State of Texas, and on the relation of the person filing the petition.

(c) In a removal case, the judge may not submit special issues to the jury. Under a proper charge applicable to the facts of the case, the judge shall instruct the jury to find from the evidence whether the grounds for removal alleged in the petition are true. If the petition alleges more than one ground for removal, the jury shall indicate in the verdict which grounds are sustained by the evidence and which are not sustained. (V.A.C.S. Arts. 5971 (part), 5977 (part), 5978, 5981.)

Sec. 87.019. APPEAL. (a) Either party to a removal action may appeal the final judgment to the court of appeals in the manner provided for other civil cases. If the officer has not been suspended from office, the officer is not required to post an appeal bond but may be required to post a bond for costs.

(b) An appeal of a removal action takes precedence over the ordinary business of the court of appeals and shall be decided with all convenient dispatch. If the trial court judgment is not set aside or suspended, the court of appeals shall issue its mandate in the case within five days after the date the court renders its judgment. (V.A.C.S. Arts. 5983, 5987.)

[Sections 87.020–87.030 reserved for expansion]

SUBCHAPTER C. REMOVAL BY CRIMINAL CONVICTION

Sec. 87.031. IMMEDIATE REMOVAL. (a) The conviction of a county officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.

(b) The court rendering judgment in such a case shall include an order removing the officer in the judgment. (V.A.C.S. Art. 5968.)

Sec. 87.032. APPEAL; SUSPENSION. If the officer appeals the judgment, the appeal supersedes the order of removal unless the court that renders the judgment finds that it is in the public interest to suspend the officer pending the appeal. If the court finds that the public interest requires suspension, the court shall suspend the officer as provided by this subchapter. (V.A.C.S. Art. 5969.)

[Sections 87.033–87.040 reserved for expansion]

SUBCHAPTER D. FILLING OF VACANCIES

Sec. 87.041. VACANCIES FILLED BY APPOINTMENT OF COMMISSIONERS COURT. (a) The commissioners court of a county may fill a vacancy in the office of:

- (1) county judge;
- (2) county clerk;
- (3) district and county clerk;
- (4) sheriff;
- (5) county attorney;
- (6) county treasurer;
- (7) county surveyor;
- (8) inspector of hides and animals;
- (9) county tax assessor-collector;
- (10) justice of the peace; or
- (11) constable.

(b) The commissioners court shall fill a vacancy by a majority vote of the members of the court who are present and voting.

(c) The person appointed by the commissioners court to fill the vacancy shall hold office until the next general election. (V.A.C.S. Art. 2355.)

Sec. 87.042. COUNTY COMMISSIONER VACANCY. If a vacancy occurs in the office of county commissioner, the county judge shall appoint a suitable resident of the precinct in which the vacancy exists to fill the vacancy until the next general election. (V.A.C.S. Art. 2341.)

[Chapters 88–100 reserved for expansion]

TITLE 4. FINANCES

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- Sec. 101.005. DEBT PAYMENTS; IMPROVEMENTS
- Sec. 101.006. RECEIVERSHIP FOR PAYMENT OF DEBTS

[Sections 101.007–101.020 reserved for expansion]

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TITLE 4. FINANCES

SUBTITLE A. MUNICIPAL FINANCES

CHAPTER 101. GENERAL FINANCIAL PROVISIONS AFFECTING MUNICIPALITIES

SUBCHAPTER A. PROVISIONS AFFECTING TYPE A GENERAL-LAW MUNICIPALITIES

Sec. 101.001. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type A general-law municipality. (New.)

Sec. 101.002. CONTROL OF FINANCES. The governing body of the municipality may manage and control the finances of the municipality. (V.A.C.S. Art. 1015, Subdiv. 40 (part).)

Sec. 101.003. APPROPRIATIONS; PAYMENTS. The governing body of the municipality may appropriate money and provide for the payment of municipal debts and expenses. (V.A.C.S. Art. 1015, Subdiv. 41.)

Sec. 101.004. SPECIAL FUNDS; DISBURSEMENT. The governing body of the municipality may provide by ordinance for the creation of special funds for special purposes and may provide that a special fund may be disbursed only for the purpose for which the fund was created. (V.A.C.S. Art. 1015, Subdiv. 42 (part).)

Sec. 101.005. DEBT PAYMENTS; IMPROVEMENTS. (a) The governing body of the municipality may appropriate municipal revenues to:

- (1) retire and discharge the accrued indebtedness of the municipality;
- (2) improve public markets and streets; or
- (3) erect and operate municipal hospitals, a city hall, waterworks, or other municipal buildings and facilities.

(b) The governing body may appropriate municipal revenues under this section in amounts and under conditions that it considers appropriate.

(c) In order to fulfill its functions under this section, the governing body may borrow money based on the credit of the municipality. (V.A.C.S. Art. 1015, Subdiv. 43.)

Sec. 101.006. RECEIVERSHIP FOR PAYMENT OF DEBTS. (a) On the failure of the municipality to accomplish a compromise of its debts or pending the negotiation of a compromise, the municipality may apply to the district court of the county in which the municipality is located to have the court take charge of the collection and appropriation of all taxes levied and assessed by the municipality, except an amount of taxes necessary to pay the current expenses of the municipality. The application must describe the financial condition and insolvency of the municipality.

(b) After the application is made to the district court, the court shall appoint a receiver or designate the assessor and collector of the municipality as receiver to collect and pay into a named depository, for the payment of the municipal debts, all taxes levied by the municipality. The district court may not appoint a receiver except on the voluntary application of the municipality.

(c) The district court shall decide all questions of priority between conflicting claimants of the municipal funds in the depository and shall provide for the ratable and equitable distribution of the funds among all creditors entitled to the funds. (V.A.C.S. Art. 1024.)

[Sections 101.007–101.020 reserved for expansion]

SUBCHAPTER B. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITIES

Sec. 101.021. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a home-rule municipality. (New.)

Sec. 101.022. GENERAL FISCAL POWERS. The municipality may:

- (1) control and manage the finances of the municipality; and
- (2) prescribe its fiscal year and other fiscal arrangements. (V.A.C.S. Art. 1175, Subdiv. 10 (part).)

Sec. 101.023. GARNISHMENT. The municipality may provide that its municipal funds are not subject to garnishment and that the municipality is not required to answer in garnishment proceedings. (V.A.C.S. Art. 1175, Subdiv. 5.)

CHAPTER 102. MUNICIPAL BUDGET

Sec. 102.001. BUDGET OFFICER

Sec. 102.002. ANNUAL BUDGET REQUIRED

Sec. 102.003. ITEMIZED BUDGET; CONTENTS

Sec. 102.004. INFORMATION FURNISHED BY MUNICIPAL OFFICERS AND BOARDS

Sec. 102.005. PROPOSED BUDGET FILED WITH MUNICIPAL CLERK; PUBLIC INSPECTION

Sec. 102.006. PUBLIC HEARING ON PROPOSED BUDGET

Sec. 102.007. ADOPTION OF BUDGET

Sec. 102.008. APPROVED BUDGET FILED WITH MUNICIPAL CLERK

Sec. 102.009. LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE

Sec. 102.010. CHANGES IN BUDGET FOR MUNICIPAL PURPOSES

Sec. 102.011. CIRCUMSTANCES UNDER WHICH CHARTER PROVISIONS CONTROL

CHAPTER 102. MUNICIPAL BUDGET

Sec. 102.001. BUDGET OFFICER. (a) The mayor of a municipality serves as the budget officer for the governing body of the municipality except as provided by Subsection (b).

(b) If the municipality has the city manager form of government, the city manager serves as the budget officer. (V.A.C.S. Art. 689a–13 (part).)

Sec. 102.002. ANNUAL BUDGET REQUIRED. The budget officer shall prepare each year a municipal budget to cover the proposed expenditures of the municipal government for the succeeding year. (V.A.C.S. Art. 689a–13 (part).)

Sec. 102.003. **ITEMIZED BUDGET; CONTENTS.** (a) The budget officer shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes made for the preceding year. The budget must show as definitely as possible each of the projects for which expenditures are set up in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget must contain a complete financial statement of the municipality that shows:

- (1) the outstanding obligations of the municipality;
- (2) the cash on hand to the credit of each fund;
- (3) the funds received from all sources during the preceding year;
- (4) the funds available from all sources during the ensuing year;
- (5) the estimated revenue available to cover the proposed budget; and
- (6) the estimated tax rate required to cover the proposed budget. (V.A.C.S. Art. 689a-13 (part).)

Sec. 102.004. **INFORMATION FURNISHED BY MUNICIPAL OFFICERS AND BOARDS.** In preparing the budget, the budget officer may require any municipal officer or board to furnish information necessary for the budget officer to properly prepare the budget. (V.A.C.S. Art. 689a-16.)

Sec. 102.005. **PROPOSED BUDGET FILED WITH MUNICIPAL CLERK; PUBLIC INSPECTION.** (a) The budget officer shall file the proposed budget with the municipal clerk before the 30th day before the date the governing body of the municipality makes its tax levy for the fiscal year.

(b) The proposed budget shall be available for inspection by any taxpayer. (V.A.C.S. Art. 689a-14.)

Sec. 102.006. **PUBLIC HEARING ON PROPOSED BUDGET.** (a) The governing body of a municipality shall hold a public hearing on the proposed budget. Any taxpayer of the municipality may attend and may participate in the hearing.

(b) The governing body shall set the hearing for a date occurring after the 15th day after the date the proposed budget is filed with the municipal clerk but before the date the governing body makes its tax levy.

(c) The governing body shall provide for public notice of the date, time, and location of the hearing. (V.A.C.S. Art. 689a-15 (part).)

Sec. 102.007. **ADOPTION OF BUDGET.** (a) At the conclusion of the public hearing, the governing body of the municipality shall take action on the proposed budget.

(b) The governing body may make any changes in the budget that it considers warranted by the law or by the best interest of the municipal taxpayers. (V.A.C.S. Art. 689a-15 (part).)

Sec. 102.008. **APPROVED BUDGET FILED WITH MUNICIPAL CLERK.** On final approval of the budget by the governing body of the municipality, the governing body shall file the budget with the municipal clerk. (V.A.C.S. Art. 689a-15 (part).)

Sec. 102.009. **LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE.** (a) The governing body of the municipality may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the governing body may spend municipal funds only in strict compliance with the budget, except in an emergency.

(c) The governing body may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the governing body amends the original budget to meet an emergency, the governing body shall file a copy of its order or resolution amending the budget with the municipal clerk, and the clerk shall attach the copy to the original budget.

(d) After the adoption of the budget or a budget amendment, the budget officer shall provide for the filing of a true copy of the approved budget or amendment in the office of

the county clerk of the county in which the municipality is located. (V.A.C.S. Art. 689a-15 (part).)

Sec. 102.010. CHANGES IN BUDGET FOR MUNICIPAL PURPOSES. This chapter does not prevent the governing body of the municipality from making changes in the budget for municipal purposes. (V.A.C.S. Art. 689a-20 (part).)

Sec. 102.011. CIRCUMSTANCES UNDER WHICH CHARTER PROVISIONS CONTROL. If a municipality has already adopted charter provisions that require the preparation of an annual budget covering all municipal expenditures and if the municipality conducts a public hearing on the budget as provided by Section 102.006, the charter provisions control. After the budget has been finally prepared and approved, a copy of the budget and the amendments to the budget shall be filed with the county clerk, as required for other budgets under this chapter. (V.A.C.S. Art. 689a-13 (part).)

CHAPTER 103. AUDIT OF MUNICIPAL FINANCES

Sec. 103.001. ANNUAL AUDIT; FINANCIAL STATEMENT

Sec. 103.002. AUDITOR

Sec. 103.003. FILING; PUBLIC RECORD

Sec. 103.004. VALUATION OF CERTAIN BENEFIT PROGRAMS

CHAPTER 103. AUDIT OF MUNICIPAL FINANCES

Sec. 103.001. ANNUAL AUDIT; FINANCIAL STATEMENT. A municipality shall have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit. (V.A.C.S. Art. 1023a, Sec. (a) (part).)

Sec. 103.002. AUDITOR. A municipality whose records and accounts are not audited annually by a person prescribed by statute, by charter, or by a person in the regular employ of the municipality shall employ at its own expense a certified public accountant who is licensed in this state or a public accountant who holds a permit to practice from the Texas State Board of Public Accountancy to conduct the audit and to prepare the annual financial statement. (V.A.C.S. Art. 1023a, Sec. (a) (part).)

Sec. 103.003. FILING; PUBLIC RECORD. (a) The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the municipal secretary or clerk within 120 days after the last day of the municipality's fiscal year.

(b) The financial statement is a public record. (V.A.C.S. Art. 1023a(b).)

Sec. 103.004. VALUATION OF CERTAIN BENEFIT PROGRAMS. (a) A municipality that provides a continuing organized program of service retirement benefits, disability retirement benefits, or death benefits for any of its officers or employees must include in the annual financial statement a valuation of the financial assets and liabilities of the program as shown in the most recent actuarial valuation of the program.

(b) This section does not apply to:

- (1) a program for which the only funding agency is a life insurance company;
- (2) a program providing only workers' compensation benefits; or
- (3) a program administered by the municipality as a member of the Texas Municipal Retirement System. (V.A.C.S. Art. 1023a(c).)

CHAPTER 104. MUNICIPAL INVESTMENT OF TRUST FUNDS
AND SPECIAL DEPOSITS

- Sec. 104.001. CHAPTER APPLICABLE TO CERTAIN HOME-RULE MUNICIPALITIES
- Sec. 104.002. AUTHORITY TO MAKE INVESTMENTS
- Sec. 104.003. EFFECT OF EARLY WITHDRAWAL
- Sec. 104.004. INTEREST
- Sec. 104.005. CUMULATIVE EFFECT WITH CHARTER PROVISIONS

CHAPTER 104. MUNICIPAL INVESTMENT OF TRUST FUNDS
AND SPECIAL DEPOSITS

Sec. 104.001. CHAPTER APPLICABLE TO CERTAIN HOME-RULE MUNICIPALITIES. This chapter applies only to a home-rule municipality with a population of 900,000 or more whose charter provides for an elected comptroller, auditor, or treasurer. (V.A.C. S. Art. 1182g, Sec. 1.)

Sec. 104.002. AUTHORITY TO MAKE INVESTMENTS. (a) The municipality may invest trust funds and special deposits in the custody of the municipality.

(b) The municipal official responsible for managing and conducting the municipality's fiscal affairs shall make the investments. The investments are subject to the supervision and control of the governing body, as established by ordinance.

(c) The municipality may invest the funds in amounts that are not required for immediate disbursement according to official estimates by purchasing obligations of the United States government or by placing the funds in time deposit accounts with one or more depository banks of the municipality. (V.A.C.S. Art. 1182g, Sec. 2.)

Sec. 104.003. EFFECT OF EARLY WITHDRAWAL. If any of the funds placed in time deposit accounts are required before maturity, they shall be made available by the depository bank, but the bank is not liable for interest earned on any amount withdrawn before maturity. (V.A.C.S. Art. 1182g, Sec. 3.)

Sec. 104.004. INTEREST. The municipal official responsible for managing and conducting the fiscal affairs shall receive the interest earned on the investments and shall place the interest in the municipal general fund as compensation to the municipality for holding and handling the trust funds and special deposits for the benefit of the persons ultimately entitled to receive the funds and deposits. (V.A.C.S. Art. 1182g, Sec. 4.)

Sec. 104.005. CUMULATIVE EFFECT WITH CHARTER PROVISIONS. This chapter is cumulative of the municipal powers of investment derived from the municipal charter. (V.A.C.S. Art. 1182g, Sec. 5 (part).)

CHAPTER 105. DEPOSITORY FOR MUNICIPAL FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 105.001. DEFINITIONS
- Sec. 105.002. FUNDS AFFECTED

[Sections 105.003–105.010 reserved for expansion]

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

- Sec. 105.011. DEPOSITORY AUTHORIZED
- Sec. 105.012. NOTICE
- Sec. 105.013. APPLICATION
- Sec. 105.014. SELECTION OF DEPOSITORY
- Sec. 105.015. DESIGNATION OF DEPOSITORY

[Sections 105.016–105.030 reserved for expansion]

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

- Sec. 105.031. QUALIFICATION AS DEPOSITORY
- Sec. 105.032. PERSONAL BOND
- Sec. 105.033. SURETY BOND
- Sec. 105.034. BONDS, NOTES, AND OTHER SECURITIES
- Sec. 105.035. CONDITION OF PERSONAL BOND OR CONTRACT FOR SECURITIES
- Sec. 105.036. AMOUNT OF SECURITY REQUIRED
- Sec. 105.037. SECURITY NOT REQUIRED FOR FEDERALLY INSURED DEPOSITS

[Sections 105.038–105.050 reserved for expansion]

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

- Sec. 105.051. NEW SECURITY
- Sec. 105.052. SUBSTITUTION OF SECURITIES
- Sec. 105.053. RELEASE OF EXCESS SECURITY
- Sec. 105.054. INADEQUATE SECURITY
- Sec. 105.055. SOLVENCY OF PERSONAL SURETY
- Sec. 105.056. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES
- Sec. 105.057. SURRENDER OF INTEREST ON SECURITIES

[Sections 105.058–105.070 reserved for expansion]

SUBCHAPTER E. DEPOSITORY ACCOUNTS

- Sec. 105.071. CHARACTER AND AMOUNT OF DEPOSITS
- Sec. 105.072. INVESTMENTS IN UNITED STATES SECURITIES
- Sec. 105.073. DEPOSIT OF FUNDS
- Sec. 105.074. DRAWING OF CHECKS AND WARRANTS
- Sec. 105.075. CHECKS PAYABLE AT DEPOSITORY
- Sec. 105.076. DEBTS PAYABLE OTHER THAN AT MUNICIPAL TREASURY

[Sections 105.077–105.090 reserved for expansion]

SUBCHAPTER F. LIABILITY AND REPORT OF TREASURER

- Sec. 105.091. LIABILITY OF TREASURER
- Sec. 105.092. REPORT BY TREASURER

CHAPTER 105. DEPOSITORIES FOR MUNICIPAL FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 105.001. DEFINITIONS. In this chapter:

(1) "Bank" means a banking corporation or association or an individual banker.

(2) "Demand deposit" means a deposit of funds that may be withdrawn on the demand of the depositor.

(3) "Time deposit" means a deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

(4) "Secretary of a municipality" includes the clerk of a municipality. (V.A.C.S. Arts. 2560 (part), 2566 (part); New.)

Sec. 105.002. FUNDS AFFECTED. This chapter applies to the funds of any municipality, including any school funds of the municipality. (V.A.C.S. Arts. 2559 (part), 2566 (part).)

[Sections 105.003–105.010 reserved for expansion]

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 105.011. DEPOSITORY AUTHORIZED. (a) At a meeting held at any time, the governing body of a municipality may receive applications from one or more banks for the deposit of the municipality's funds.

(b) If two or more banks are doing business within a municipality, the governing body may consider the applications of only those banks. (V.A.C.S. Art. 2559 (part).)

Sec. 105.012. NOTICE. Not earlier than four weeks or later than one week before the date of the meeting, the secretary of the municipality shall publish at least once in a newspaper published in the municipality a notice of the meeting at which applications are to be received. (V.A.C.S. Art. 2559 (part).)

Sec. 105.013. APPLICATION. A bank desiring to be selected as a municipal depository must deliver its application to the secretary of the municipality on or before the date of the meeting at which applications are to be received. (V.A.C.S. Art. 2559 (part).)

Sec. 105.014. SELECTION OF DEPOSITORY. (a) After considering the applications, the governing body of the municipality shall select as municipal depositories one or more banks that offer the most favorable terms and conditions for the handling of the municipal funds.

(b) The governing body may reject any of the applications and readvertise for applications.

(c) The conflict of interests provisions of Chapter 179, Acts of the 60th Legislature, Regular Session, 1967 (Article 2529c, Vernon's Texas Civil Statutes), apply to the selection of the depositories. (V.A.C.S. Art. 2560 (part); New.)

Sec. 105.015. DESIGNATION OF DEPOSITORY. (a) When security is provided in accordance with Subchapter C and is approved by the governing body of the municipality, the governing body shall designate, by an order recorded in its minutes, the bank as a depository for the municipality's funds.

(b) If a bank selected as a municipal depository does not provide security by the deadline prescribed by Section 105.031, the selection of the bank as a depository is void, and the governing body shall publish notice, receive applications, and select another depository in the regular manner. (V.A.C.S. Art. 2561, Sec. (a) (part).)

[Sections 105.016–105.030 reserved for expansion]

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

Sec. 105.031. QUALIFICATION AS DEPOSITORY. (a) Within five days after the date a bank is selected as a municipal depository, the bank must qualify as a depository by providing security for the municipal funds to be deposited with the bank.

(b) The bank may secure the municipal funds, at the option of the governing body of the municipality, by:

- (1) personal bond; surety bond; bonds, notes, or other securities; or a combination of these methods, as provided by this subchapter; or

(2) investment securities or interests in them as provided by Chapter 726, Acts of the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 2560 (part); New.)

Sec. 105.032. PERSONAL BOND. (a) One or more personal bonds executed and filed with the governing body of the municipality, payable to the municipality, qualify as security under this subchapter if:

(1) the bonds are signed by at least five solvent sureties who:

(A) own unencumbered real property in the state that has a value at least equal to the amount of the bonds and that is not exempt from execution under the constitution and other laws of this state; or

(B) have an aggregate net worth at least equal to the amount of the bonds; and

(2) the bonds are approved by the governing body.

(b) When a bond is filed for approval under Subsection (a)(1)(A), the sureties shall also file with the governing body a statement containing:

(1) a description of the unencumbered and nonexempt real property sufficient to identify it on the ground; and

(2) a fair estimate of the value of each tract of real property listed, including the value of any improvements on the property.

(c) When a bond is filed for approval under Subsection (a)(1)(B), the sureties shall also file with the governing body an itemized and verified financial statement showing that the aggregate net worth of the sureties is at least equal to the amount of the bonds.

(d) After the governing body approves a personal bond, it shall be filed with the secretary of the municipality. The statement required by Subsection (c) shall be attached to the bond. (V.A.C.S. Art. 2560 (part).)

Sec. 105.033. SURETY BOND. (a) One or more bonds issued and executed by one or more solvent surety companies authorized to do business in this state, payable to the municipality and filed with the governing body of the municipality, qualify as security under this subchapter if the bonds are approved by the governing body.

(b) After the governing body approves a surety bond, it shall be filed with the secretary of the municipality. (V.A.C.S. Art. 2560 (part).)

Sec. 105.034. BONDS, NOTES, AND OTHER SECURITIES. If approved by the governing body as to kind and value, a municipal depository may pledge with the governing body of the municipality as security under this subchapter:

(1) a bond, certificate of indebtedness, or treasury note of the United States, or other evidence of indebtedness of the United States that is guaranteed as to principal and interest by the United States;

(2) a bond of this state or of a county, municipality, independent school district, common school district, or other school district in this state;

(3) a bond issued under the federal farm loan acts;

(4) a road district bond;

(5) a bond, pledge, or other evidence of indebtedness issued by the board of regents of The University of Texas System;

(6) a note or bond secured by mortgages insured and debentures issued by the Federal Housing Administration;

(7) shares or share accounts of a savings and loan association organized under the laws of this state or of a federal savings and loan association domiciled in this state if the payment of the share or share accounts is insured by the Federal Savings and Loan Insurance Corporation;

(8) bank acceptances of banks that have a capital stock of at least \$500,000; or

(9) a bond issued by a municipal corporation in this state. (V.A.C.S. Art. 2560 (part).)

Sec. 105.035. **CONDITION OF PERSONAL BOND OR CONTRACT FOR SECURITIES.** (a) A personal bond or surety bond provided, or a contract for the pledge of securities under this subchapter, must be conditioned that the depository will:

- (1) faithfully keep the municipal funds and faithfully perform the duties and obligations imposed by law on the depository;
- (2) pay on presentation all checks drawn on a demand deposit account with the depository;
- (3) pay all checks drawn on a time deposit account on presentation by the treasurer of the municipality after the required period of notice; and
- (4) account for the municipal funds as required by law.

(b) A suit on a personal bond, surety bond, or contract for securities provided or pledged under this subchapter must be tried in the county in which the municipality is located. (V.A.C.S. Art. 2560 (part).)

Sec. 105.036. **AMOUNT OF SECURITY REQUIRED.** (a) Personal or surety bonds that secure municipal funds in a depository must be in an amount at least equal to the total amount of the revenue of the municipality for the year preceding the year for which the bonds are made.

(b) Securities pledged to secure municipal funds on deposit in a depository must be in an amount equal to the amount of those funds. The value of the securities is determined by the governing body of the municipality, and that determination is final and is binding on the depository. (V.A.C.S. Art. 2560 (part).)

Sec. 105.037. **SECURITY NOT REQUIRED FOR FEDERALLY INSURED DEPOSITS.** A depository is not required to provide security for the deposit of municipal funds to the extent the deposits are insured under 12 U.S.C.A. Sections 1811-1832. (V.A.C.S. Art. 2566a.)

[Sections 105.038-105.050 reserved for expansion]

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

Sec. 105.051. **NEW SECURITY.** (a) The governing body of the municipality may by written order require a depository to execute a new bond or pledge additional or other securities at any time the governing body considers it advisable or considers it necessary for the protection of the municipality.

(b) If a depository fails for any reason to file the required new bond or pledge the required securities within five days after the date the depository is served with a copy of the order, the governing body may select a new depository in the regular manner. (V.A.C.S. Arts. 2560 (part), 2563 (part).)

Sec. 105.052. **SUBSTITUTION OF SECURITIES.** (a) A depository is entitled to substitute one type of security for another if the substituting security meets the requirements of law and is approved by the governing body of the municipality.

(b) The governing body may direct the manner in which securities pledged in place of personal or surety bonds are to be deposited. (V.A.C.S. Art. 2560 (part).)

Sec. 105.053. **RELEASE OF EXCESS SECURITY.** If the securities pledged by a depository to secure municipal funds exceed the amount required by this chapter, the governing body of the municipality shall permit the release of the excess. (V.A.C.S. Art. 2560 (part).)

Sec. 105.054. **INADEQUATE SECURITY.** If for any reason the municipal funds on deposit with a depository exceed the amount of security pledged, the depository shall immediately pledge additional securities with the governing body of the municipality. (V.A.C.S. Art. 2560 (part).)

Sec. 105.055. **SOLVENCY OF PERSONAL SURETY.** (a) At least twice each year while a personal bond securing municipal deposits is in effect, the governing body of the municipality shall investigate the solvency of each surety on the bond. The governing body may require a surety to make an itemized and verified financial statement accurate-

ly showing the surety's financial position and, if the bond requires the surety to own real property, identifying each tract of real property owned by the surety and stating its value.

(b) The governing body shall require a depository to provide a new bond meeting the requirements of this chapter if a financial statement provided under Subsection (a) indicates that:

- (1) a surety is insolvent;
- (2) a surety's net worth is less than the amount required by this chapter;
- (3) the assets listed are depreciated or their value is in any way impaired; or
- (4) real property required by the bond has been disposed of or encumbered and the value of the remaining unencumbered and nonexempt real property is insufficient to meet the requirements of this chapter. (V.A.C.S. Art. 2560 (part).)

Sec. 105.056. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES. At any time the governing body of the municipality considers it necessary for the protection of the municipality, the governing body may investigate the solvency of a surety company that issues a bond on behalf of a municipal depository or investigate the value of securities pledged by a depository to secure municipal funds. (V.A.C.S. Art. 2560 (part).)

Sec. 105.057. SURRENDER OF INTEREST ON SECURITIES. On request of a municipal depository, the governing body of the municipality shall surrender, when due, interest coupons or other evidence of interest on securities deposited by the depository with the governing body if the securities remaining pledged by the depository are adequate to meet the requirements of this chapter and of the governing body. (V.A.C.S. Art. 2560 (part).)

[Sections 105.058–105.070 reserved for expansion]

SUBCHAPTER E. DEPOSITORY ACCOUNTS

Sec. 105.071. CHARACTER AND AMOUNT OF DEPOSITS. (a) The governing body of the municipality may determine and designate the character and amount of municipal funds that will be demand deposits and that will be time deposits.

(b) The governing body may contract with a depository for interest on time deposits at any legal rate under federal law or under a rule adopted by the board of governors of the Federal Reserve System or by the board of directors of the Federal Deposit Insurance Corporation. (V.A.C.S. Art. 2560 (part).)

Sec. 105.072. INVESTMENTS IN UNITED STATES SECURITIES. The governing body of the municipality may direct the treasurer of the municipality to withdraw any municipal funds deposited in a depository that are not immediately required to pay obligations of the municipality and invest those funds in direct debt securities of the United States unless such an investment or withdrawal is expressly prohibited by law or the withdrawal is contrary to the terms of the depository contract. (V.A.C.S. Art. 2561, Sec. (b).)

Sec. 105.073. DEPOSIT OF FUNDS. Immediately after the governing body of the municipality designates a municipal depository, the treasurer of the municipality shall transfer to the depository all the municipal funds under the treasurer's control. The treasurer shall also immediately deposit in the depository to the credit of the municipality any money received after the depository is designated. (V.A.C.S. Art. 2561, Sec. (a) (part).)

Sec. 105.074. DRAWING OF CHECKS AND WARRANTS. (a) The funds of the municipality may be paid out of a depository only on the checks of the treasurer of the municipality.

(b) Except in a municipality that operates under a municipal charter provision that provides for the drawing of checks or warrants on the depository or municipal funds in a manner different from that prescribed by this section, a treasurer may draw a check on a depository only on a warrant signed by the mayor and attested by the secretary of the municipality.

(c) If there is sufficient money in a fund in a depository against which the proper authority has drawn a warrant, the treasurer on presentation of the warrant shall draw a check on the depository in favor of the legal holder of the warrant, retain the warrant, and charge the warrant against the fund on which it is drawn. The treasurer may not draw a warrant on a fund in a depository unless the fund has sufficient money to pay the warrant.

(d) A treasurer may not draw a check on any funds designated as time deposits until notice has been given and the notice period has expired under the terms of the contract with the depository.

(e) The mayor and secretary of the municipality may not draw a warrant on a special fund in a depository or under the control of the treasurer that was created to pay the bonded indebtedness of the municipality other than to pay the principal of or interest on the indebtedness or to invest the fund as provided by law.

(f) The treasurer may not pay or draw a check to pay money out of a special fund that was created to pay the bonded indebtedness of the municipality other than to pay the principal of or interest on the indebtedness or to invest the fund as provided by law. (V.A.C.S. Arts. 2562 (part), 2565 (part).)

Sec. 105.075. CHECKS PAYABLE AT DEPOSITORY. Checks drawn by the treasurer of the municipality against municipal funds on deposit are payable by the depository at its place of business in the municipality. (V.A.C.S. Art. 2562 (part).)

Sec. 105.076. DEBTS PAYABLE OTHER THAN AT MUNICIPAL TREASURY. The governing body of the municipality may direct the treasurer of the municipality to withdraw from a depository and deposit money sufficient to pay a bond, coupon, or other indebtedness of the municipality at a place other than at the municipal treasury if by its terms the indebtedness is payable on maturity at the other location. (V.A.C.S. Art. 2562 (part).)

[Sections 105.077–105.090 reserved for expansion]

SUBCHAPTER F. LIABILITY AND REPORT OF TREASURER

Sec. 105.091. LIABILITY OF TREASURER. The treasurer of the municipality is not responsible for any loss of municipal funds through the negligence, failure, or wrongful act of a depository. This section does not release the treasurer from responsibility for a loss resulting from the official misconduct of the treasurer, including a misappropriation of the funds, or from responsibility for the funds until a depository is selected and the funds are deposited. (V.A.C.S. Art. 2564.)

Sec. 105.092. REPORT BY TREASURER. On or before the first regular meeting of the governing body of the municipality in July of each year, the treasurer of the municipality shall report to the governing body:

- (1) the amount of receipts and expenditures of the municipal treasury;
- (2) the amount of money on hand in each fund;
- (3) the amount of bonds becoming due for redemption that require action;
- (4) the amount of interest to be paid during the next fiscal year; and
- (5) any other information required by law to be reported by the treasurer. (V.A.C.S. Art. 2565 (part).)

[Chapters 106–110 reserved for expansion]

SUBTITLE B. COUNTY FINANCES

CHAPTER 111. COUNTY BUDGET

SUBCHAPTER A. BUDGET PREPARATION IN COUNTIES WITH
POPULATION OF 225,000 OR LESS

- Sec. 111.001. SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF 225,000 OR LESS
- Sec. 111.002. COUNTY JUDGE AS BUDGET OFFICER
- Sec. 111.003. ANNUAL BUDGET REQUIRED
- Sec. 111.004. ITEMIZED BUDGET; CONTENTS
- Sec. 111.005. INFORMATION FURNISHED BY COUNTY OFFICERS
- Sec. 111.006. PROPOSED BUDGET FILED WITH COUNTY CLERK; PUBLIC INSPECTION
- Sec. 111.007. PUBLIC HEARING ON PROPOSED BUDGET
- Sec. 111.008. ADOPTION OF BUDGET
- Sec. 111.009. APPROVED BUDGET FILED WITH COUNTY CLERK
- Sec. 111.010. LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE
- Sec. 111.011. CHANGES IN BUDGET FOR COUNTY PURPOSES
- Sec. 111.012. PENALTY

[Sections 111.013–111.030 reserved for expansion]

SUBCHAPTER B. BUDGET PREPARATION IN COUNTIES WITH
POPULATION OF MORE THAN 225,000

- Sec. 111.031. SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF MORE THAN 225,000; EXCEPTION
- Sec. 111.032. COUNTY AUDITOR AS BUDGET OFFICER
- Sec. 111.033. ANNUAL BUDGET REQUIRED
- Sec. 111.034. ITEMIZED BUDGET; CONTENTS
- Sec. 111.035. LIMITATION ON EXPENDITURES BEFORE ADOPTION OF BUDGET
- Sec. 111.036. INFORMATION FURNISHED BY OFFICERS
- Sec. 111.037. PROPOSED BUDGET FILED WITH COUNTY CLERK; PUBLIC INSPECTION
- Sec. 111.038. PUBLIC HEARING ON PROPOSED BUDGET
- Sec. 111.039. ADOPTION OF BUDGET
- Sec. 111.040. APPROVED BUDGET FILED WITH OFFICERS
- Sec. 111.041. EXPENDITURE OF FUNDS UNDER BUDGET; TRANSFER OF BUDGET SURPLUS
- Sec. 111.042. BUDGET FOR EXPENDITURES FROM PROCEEDS OF BONDS OR ANTICIPATION WARRANTS
- Sec. 111.043. SPECIAL BUDGET FOR GRANT OR AID MONEY

[Sections 111.044–111.060 reserved for expansion]

SUBCHAPTER C. BUDGET PREPARATION IN COUNTIES WITH POPULATION
OF MORE THAN 1.2 MILLION

- Sec. 111.061. SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF MORE THAN 1.2 MILLION
- Sec. 111.062. APPOINTMENT OF BUDGET OFFICER; ABOLITION OF OFFICE
- Sec. 111.063. ITEMIZED BUDGET; CONTENTS
- Sec. 111.064. LIMITATION ON EXPENDITURES BEFORE ADOPTION OF BUDGET
- Sec. 111.065. INFORMATION FURNISHED BY OFFICERS
- Sec. 111.066. PROPOSED BUDGET FILED WITH COUNTY CLERK AND COUNTY AUDITOR; PUBLIC INSPECTION
- Sec. 111.067. PUBLIC HEARING ON PROPOSED BUDGET
- Sec. 111.068. ADOPTION OF BUDGET
- Sec. 111.069. APPROVED BUDGET FILED WITH OFFICERS
- Sec. 111.070. EXPENDITURE OF FUNDS UNDER BUDGET; TRANSFER OF BUDGET SURPLUS

- Sec. 111.071. BUDGET OFFICER'S ASSISTANCE TO COMMISSIONERS COURT
 Sec. 111.072. DUTIES RETAINED BY COUNTY AUDITOR
 Sec. 111.073. EMPLOYMENT OF PERSONNEL

[Sections 111.074–111.090 reserved for expansion]

SUBCHAPTER D. BUDGET APPROPRIATIONS

- Sec. 111.091. APPROPRIATION ACCOUNTS
 Sec. 111.092. DEPARTMENTAL EXPENSES NOT TO EXCEED APPROPRIATIONS
 Sec. 111.093. APPROPRIATIONS FOR PURCHASES, CONTRACTS, SALARIES, OR
 LABOR EXPENSES IN COUNTY WITH POPULATION OF MORE
 THAN 225,000

SUBTITLE B. COUNTY FINANCES

CHAPTER 111. COUNTY BUDGET

SUBCHAPTER A. BUDGET PREPARATION IN COUNTIES
 WITH POPULATION OF 225,000 OR LESS

Sec. 111.001. SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF 225,000 OR LESS. This subchapter applies only to a county with a population of 225,000 or less. (New.)

Sec. 111.002. COUNTY JUDGE AS BUDGET OFFICER. The county judge serves as the budget officer for the commissioners court of the county. (V.A.C.S. Art. 689a-9 (part).)

Sec. 111.003. ANNUAL BUDGET REQUIRED. During the seventh month of the fiscal year, the county judge, assisted by the county auditor or county clerk, shall prepare a budget to cover all proposed expenditures of the county government for the succeeding fiscal year. (V.A.C.S. Art. 689a-9 (part).)

Sec. 111.004. ITEMIZED BUDGET; CONTENTS. (a) The county judge shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show as definitely as possible each of the projects for which an appropriation is established in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget must contain a complete financial statement of the county that shows:

- (1) the outstanding obligations of the county;
- (2) the cash on hand to the credit of each fund of the county government;
- (3) the funds received from all sources during the preceding fiscal year;
- (4) the funds available from all sources during the ensuing fiscal year;
- (5) the estimated revenues available to cover the proposed budget; and
- (6) the estimated tax rate required to cover the proposed budget.

(c) In preparing the budget, the county judge shall estimate the revenue to be derived from taxes to be levied and collected in the succeeding fiscal year and shall include that revenue in the estimate of funds available to cover the proposed budget. (V.A.C.S. Arts. 689a-9 (part), 689a-9a.)

Sec. 111.005. INFORMATION FURNISHED BY COUNTY OFFICERS. In preparing the budget, the county judge may require any county officer to furnish information necessary for the judge to properly prepare the budget. (V.A.C.S. Art. 689a-12.)

Sec. 111.006. PROPOSED BUDGET FILED WITH COUNTY CLERK; PUBLIC INSPECTION. (a) When the county judge has completed the preparation of the budget, the judge shall file a copy of the proposed budget with the county clerk.

(b) The copy of the proposed budget shall be available for inspection by any taxpayer. (V.A.C.S. Art. 689a-10.)

Sec. 111.007. PUBLIC HEARING ON PROPOSED BUDGET. (a) The commissioners court shall hold a public hearing on the proposed budget. Any taxpayer of the county may attend and may participate in the hearing.

(b) The commissioners court shall set the hearing for a date after the 15th day of the eighth month of the fiscal year but before the date on which taxes are levied by the court.

(c) The commissioners court shall give public notice that it will consider the proposed budget on the date of the hearing. The notice must state the date, time, and location of the hearing. (V.A.C.S. Art. 689a-11 (part).)

Sec. 111.008. ADOPTION OF BUDGET. (a) At the conclusion of the public hearing, the commissioners court shall take action on the proposed budget.

(b) The commissioners court may make any changes in the proposed budget that it considers warranted by the law and required by the interest of the taxpayers. (V.A.C.S. Art. 689a-11 (part).)

Sec. 111.009. APPROVED BUDGET FILED WITH COUNTY CLERK. On final approval of the budget by the commissioners court, the court shall file the budget with the county clerk. (V.A.C.S. Art. 689a-11 (part).)

Sec. 111.010. LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE. (a) The commissioners court may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the commissioners court may spend county funds only in strict compliance with the budget, except in an emergency.

(c) The commissioners court may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the court amends the original budget to meet an emergency, the court shall file a copy of its order amending the budget with the county clerk, and the clerk shall attach the copy to the original budget. (V.A.C.S. Art. 689a-11 (part).)

Sec. 111.011. CHANGES IN BUDGET FOR COUNTY PURPOSES. This subchapter does not prevent the commissioners court from making changes in the budget for county purposes. (V.A.C.S. Art. 689a-20 (part).)

Sec. 111.012. PENALTY. (a) An officer, employee, or official of a county government who refuses to comply with this subchapter commits an offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$1,000, confinement in the county jail for not less than one month or more than one year, or by both fine and confinement. (V.A.C.S. Art. 689a-21 (part).)

[Sections 111.013-111.030 reserved for expansion]

SUBCHAPTER B. BUDGET PREPARATION IN COUNTIES WITH POPULATION OF MORE THAN 225,000

Sec. 111.031. SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF MORE THAN 225,000; EXCEPTION. This subchapter applies only to a county that has a population of more than 225,000 and that does not operate under Subchapter C. (V.A.C.S. Art. 1666a, Sec. (a) (part).)

Sec. 111.032. COUNTY AUDITOR AS BUDGET OFFICER. The county auditor serves as budget officer for the commissioners court of the county. (V.A.C.S. Art. 1666a, Sec. (a) (part).)

Sec. 111.033. ANNUAL BUDGET REQUIRED. On or immediately after the first day of each fiscal year, the county auditor shall prepare a budget to cover the proposed expenditures of the county government for that fiscal year. (V.A.C.S. Art. 1666a, Sec. (a) (part).)

Sec. 111.034. ITEMIZED BUDGET; CONTENTS. (a) The county auditor shall itemize the budget to allow as clear a comparison as practicable between expenditures included in

the proposed budget and actual expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show with reasonable accuracy each project for which an appropriation is established in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget must contain a complete financial statement of the county that shows:

- (1) the outstanding obligations of the county;
- (2) the cash on hand to the credit of each fund of the county government;
- (3) the funds received from all sources during the preceding fiscal year;
- (4) the funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year;
- (5) the funds and revenue estimated by the auditor to be received from all sources during the ensuing fiscal year; and
- (6) a statement of all accounts and contracts on which sums are due to or owed by the county as of the last day of the preceding fiscal year, except for taxes and court costs. (V.A.C.S. Art. 1666a, Sec. (a) (part).)

Sec. 111.035. **LIMITATION ON EXPENDITURES BEFORE ADOPTION OF BUDGET.** Until a budget for a fiscal year is adopted by the commissioners court, the county may not make payments during that fiscal year except for emergencies and for obligations legally incurred before the first day of the fiscal year for salaries, utilities, materials, and supplies. (V.A.C.S. Art. 1666a, Sec. (a) (part).)

Sec. 111.036. **INFORMATION FURNISHED BY OFFICERS.** In preparing the budget, the county auditor may require any district, county, or precinct officer of the county to provide information necessary for the auditor to properly prepare the budget. (V.A.C.S. Art. 1666a, Sec. (g).)

Sec. 111.037. **PROPOSED BUDGET FILED WITH COUNTY CLERK; PUBLIC INSPECTION.** (a) The county auditor shall file a copy of the proposed budget with the county clerk.

(b) The copy of the proposed budget shall be available for public inspection by any taxpayer. (V.A.C.S. Art. 1666a, Sec. (a) (part).)

Sec. 111.038. **PUBLIC HEARING ON PROPOSED BUDGET.** (a) The commissioners court shall hold a public hearing on the proposed budget. Any taxpayer of the county may attend and may participate in the hearing.

(b) The commissioners court shall hold the hearing on a day within seven calendar days after the date the proposed budget is filed but before the last day of the first month of the fiscal year.

(c) The commissioners court shall publish notice that it will consider the proposed budget on the date of the budget hearing. The notice must be published once in a newspaper of general circulation in the county and must state the date, time, and location of the hearing. (V.A.C.S. Art. 1666a, Sec. (b) (part).)

Sec. 111.039. **ADOPTION OF BUDGET.** (a) At the conclusion of the public hearing, the commissioners court shall take action on the proposed budget.

(b) The commissioners court may make any changes in the proposed budget that it considers warranted by the facts and law and required by the interest of the taxpayers, but the amounts budgeted in a fiscal year for expenditures from the various funds of the county may not exceed the balances in those funds as of the first day of the fiscal year, plus the anticipated revenue for the fiscal year as estimated by the county auditor. (V.A.C.S. Art. 1666a, Sec. (b) (part).)

Sec. 111.040. **APPROVED BUDGET FILED WITH OFFICERS.** On final approval of the budget by the commissioners court, the court shall file a copy of the budget with the county auditor, the county clerk, and the state auditor. (V.A.C.S. Art. 1666a, Sec. (b) (part).)

Sec. 111.041. **EXPENDITURE OF FUNDS UNDER BUDGET; TRANSFER OF BUDGET SURPLUS.** (a) The commissioners court may spend county funds only in strict compliance with the budget.

(b) On proper application, the commissioners court may transfer an existing budget surplus during the fiscal year to a budget of a similar kind and fund. However, the transfer may not increase the total of the budget. (V.A.C.S. Art. 1666a, Sec. (b) (part).)

Sec. 111.042. **BUDGET FOR EXPENDITURES FROM PROCEEDS OF BONDS OR ANTICIPATION WARRANTS.** If a county bond issue is submitted at an election or if anticipation warrants are to be issued against future revenues and a tax is to be levied for those warrants, the commissioners court shall adopt a budget of proposed expenditures. On receipt of the proceeds of the sale of the bonds or warrants, the county may make expenditures from the proceeds in the manner provided by this subchapter for expenditures for general purposes. (V.A.C.S. Art. 1666a, Sec. (c).)

Sec. 111.043. **SPECIAL BUDGET FOR GRANT OR AID MONEY.** The county auditor shall certify to the commissioners court the receipt of all public or private grant or aid money that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the grant or aid money for its intended purpose. (V.A.C.S. Art. 1666a, Sec. (d).)

[Sections 111.044–111.060 reserved for expansion]

SUBCHAPTER C. BUDGET PREPARATION IN COUNTIES WITH POPULATION OF MORE THAN 1.2 MILLION

Sec. 111.061. **SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF MORE THAN 1.2 MILLION.** This subchapter applies only to a county that has a population of more than 1.2 million and that chooses to operate under this subchapter instead of under Subchapter B. (V.A.C.S. Art. 1666b, Sec. 1 (part).)

Sec. 111.062. **APPOINTMENT OF BUDGET OFFICER; ABOLITION OF OFFICE.** (a) The commissioners court of the county may appoint a county budget officer to prepare a county budget for the fiscal year.

(b) A county that establishes the office of county budget officer may abolish that office only by a formal action of the commissioners court. The court must take the action after the first day of the second month of the fiscal year and before the first day of the sixth month of the fiscal year. If the office is abolished, the county auditor shall immediately assume the duties of budget officer. (V.A.C.S. Art. 1666b, Secs. 1 (part), 2.)

Sec. 111.063. **ITEMIZED BUDGET; CONTENTS.** (a) The budget officer shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show with reasonable accuracy each of the projects for which an appropriation is established in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget officer shall obtain from the county auditor any information necessary to prepare a complete financial statement for inclusion in the budget. The financial statement must show:

- (1) the outstanding obligations of the county;
- (2) the cash on hand to the credit of each fund of the county government;
- (3) funds received from all sources during the preceding fiscal year;
- (4) the funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year;
- (5) the funds and revenue estimated by the auditor to be received during the ensuing year; and
- (6) a statement of all accounts and contracts on which sums are due to or owed by the county as of the last day of the preceding fiscal year, except for taxes and court costs. (V.A.C.S. Art. 1666b, Secs. 3, 4.)

Sec. 111.064. **LIMITATION ON EXPENDITURES BEFORE ADOPTION OF BUDGET.** Until a budget for a fiscal year is adopted by the commissioners court, the county may not make payments during that fiscal year except for emergencies and for obligations legally incurred before the first day of the fiscal year for salaries, utilities, materials, and supplies. (V.A.C.S. Art. 1666b, Sec. 5 (part).)

Sec. 111.065. **INFORMATION FURNISHED BY OFFICERS.** In preparing or monitoring the budget, the budget officer may require the county auditor or any other district,

county, or precinct officer of the county to provide any information necessary for the budget officer to properly prepare or monitor the budget. (V.A.C.S. Art. 1666b, Sec. 8.)

Sec. 111.066. **PROPOSED BUDGET FILED WITH COUNTY CLERK AND COUNTY AUDITOR; PUBLIC INSPECTION.** (a) The budget officer shall file a copy of the proposed budget with the county clerk and the county auditor.

(b) The copy of the proposed budget shall be available for public inspection. (V.A.C.S. Art. 1666b, Sec. 5 (part).)

Sec. 111.067. **PUBLIC HEARING ON PROPOSED BUDGET.** (a) The commissioners court shall hold a public hearing on the proposed budget. Any taxpayer of the county may attend and may participate in the hearing.

(b) The commissioners court shall hold the hearing on a day within seven calendar days after the date the proposed budget is filed but before the last day of the first month of the fiscal year.

(c) The commissioners court shall publish notice that it will consider the proposed budget on the date of the budget hearing. The notice must be published once in a newspaper of general circulation in the county and must state the date, time, and location of the hearing. (V.A.C.S. Art. 1666b, Sec. 6 (part).)

Sec. 111.068. **ADOPTION OF BUDGET.** (a) At the conclusion of the public hearing, the commissioners court shall take action on the proposed budget.

(b) The commissioners court may make any changes in the proposed budget that it considers warranted by the facts and law and required by the interest of the taxpayers, but the amounts budgeted in a fiscal year for expenditures from the various funds of the county may not exceed the balances in those funds as of the first day of the fiscal year, plus the anticipated revenue for the fiscal year as estimated by the county auditor. (V.A.C.S. Art. 1666b, Sec. 6 (part).)

Sec. 111.069. **APPROVED BUDGET FILED WITH OFFICERS.** On final approval of the budget by the commissioners court, the court shall file a copy of the budget with the county auditor, the county clerk, and the state auditor. (V.A.C.S. Art. 1666b, Sec. 7 (part).)

Sec. 111.070. **EXPENDITURE OF FUNDS UNDER BUDGET; TRANSFER OF BUDGET SURPLUS.** (a) The commissioners court may spend county funds only in strict compliance with the budget.

(b) On proper application, the commissioners court may transfer an existing budget surplus during the fiscal year to a budget of a similar kind and fund. However, the transfer may not increase the total of the budget. (V.A.C.S. Art. 1666b, Sec. 7 (part).)

Sec. 111.071. **BUDGET OFFICER'S ASSISTANCE TO COMMISSIONERS COURT.** The budget officer may assist the commissioners court in the performance of the court's duties relating to the efficiency and effectiveness of county operations. (V.A.C.S. Art. 1666b, Sec. 9.)

Sec. 111.072. **DUTIES RETAINED BY COUNTY AUDITOR.** The duties given under Subchapter B to the county auditor that are not expressly conferred by this subchapter on the budget officer remain duties of the county auditor. (V.A.C.S. Art. 1666b, Sec. 11.)

Sec. 111.073. **EMPLOYMENT OF PERSONNEL.** The commissioners court may employ personnel necessary to assist the budget officer in the performance of the duties of that office. (V.A.C.S. Art. 1666b, Sec. 10.)

[Sections 111.074–111.090 reserved for expansion]

SUBCHAPTER D. BUDGET APPROPRIATIONS

Sec. 111.091. **APPROPRIATION ACCOUNTS.** (a) On the adoption and certification of a general or special county budget, the county auditor shall open an appropriation account for each main budgeted or special item in the budget.

(b) The county auditor shall enter to an appropriation account each warrant drawn against that appropriation.

(c) The county auditor periodically shall inform the commissioners court of the condition of the appropriation accounts. (V.A.C.S. Arts. 1666 (part), 1666a, Sec. (e) (part).)

Sec. 111.092. **DEPARTMENTAL EXPENSES NOT TO EXCEED APPROPRIATIONS.** The county auditor shall oversee the warrant process to ensure that the expenses

of any department do not exceed the budget appropriations for that department. (V.A.C. S. Art. 1666 (part).)

Sec. 111.093. APPROPRIATIONS FOR PURCHASES, CONTRACTS, SALARIES, OR LABOR EXPENSES IN COUNTY WITH POPULATION OF MORE THAN 225,000.

(a) This section applies only to a county with a population of more than 225,000.

(b) The county auditor shall charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriation accounts.

(c) A requisition issued or a contract for work, labor, services, or materials and supplies that is entered into in the manner provided by law by a proper authority is not binding until the county auditor certifies that the budget contains an ample provision for the obligation and that funds are or will be available to pay the obligation when due.

(d) The amount allocated in the budget for a purchase order, requisition, contract, special purpose, or salary or labor account may not be allocated for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the requisition, contract, or allocation is canceled in writing by the commissioners court or a county officer for a valid reason. (V.A.C.S. Art. 1666a, Sec. (e) (part).)

CHAPTER 112. COUNTY FINANCIAL ACCOUNTING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. ACCOUNTING SYSTEM IN COUNTY WITH COUNTY AUDITOR AND POPULATION OF LESS THAN 190,000

Sec. 112.002. ACCOUNTING SYSTEM IN COUNTY WITH COUNTY AUDITOR AND POPULATION OF 190,000 OR MORE

Sec. 112.003. COMPTROLLER'S AUTHORITY TO PRESCRIBE FORMS AND DETERMINE MANNER OF STATING ACCOUNTS

Sec. 112.004. ACCOUNTS KEPT FOR OFFICERS BY COUNTY CLERK

Sec. 112.005. ACCOUNTS KEPT FOR OFFICERS BY COUNTY AUDITOR

Sec. 112.006. GENERAL OVERSIGHT AUTHORITY OF COUNTY AUDITOR

Sec. 112.007. COUNTY AUDITOR'S RECORDS OF COUNTY FINANCIAL TRANSACTIONS

Sec. 112.008. MAINTENANCE OF FINANCE RECORDS BY COMMISSIONERS COURT

Sec. 112.009. COUNTY AUDITOR PERFORMING DUTIES INSTEAD OF COUNTY CLERK

Sec. 112.010. COUNTY FISCAL YEAR

[Sections 112.011–112.030 reserved for expansion]

SUBCHAPTER B. TAX ACCOUNTS AND RECORDS

Sec. 112.031. ACCOUNT FOR TAX ASSESSOR-COLLECTOR

Sec. 112.032. RECEIPT FOR TAX ROLLS; CREDITS

Sec. 112.033. INDIGENT AND DELINQUENT TAX LISTS

Sec. 112.034. DELIVERY OF TAX ROLLS TO SUCCESSOR

Sec. 112.035. OCCUPATION TAX RECORDS

[Sections 112.036–112.050 reserved for expansion]

SUBCHAPTER C. OTHER SPECIFIC ACCOUNTS

Sec. 112.051. SHERIFF ACCOUNT

Sec. 112.052. JUSTICE OF THE PEACE ACCOUNT

Sec. 112.053. ESTRAY ACCOUNT

Sec. 112.054. COUNTY TREASURER ACCOUNT

CHAPTER 112. COUNTY FINANCIAL ACCOUNTING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. ACCOUNTING SYSTEM IN COUNTY WITH COUNTY AUDITOR AND POPULATION OF LESS THAN 190,000. In a county with a population of less than

190,000, the county auditor may adopt and enforce regulations, not inconsistent with law or with a rule adopted under Section 112.003, that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county. (V.A.C.S. Art. 1656 (part).)

Sec. 112.002. ACCOUNTING SYSTEM IN COUNTY WITH COUNTY AUDITOR AND POPULATION OF 190,000 OR MORE. (a) In a county with a population of 190,000 or more, the county auditor shall prescribe the system of accounting for the county.

(b) The county auditor may adopt and enforce regulations, not inconsistent with law or with a rule adopted under Section 112.003, that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county or to a person for whom a district clerk, district attorney, county officer, or precinct officer has made a collection or for whose use or benefit the officer holds or has received funds. (V.A.C.S. Art. 1656a (part).)

Sec. 112.003. COMPTROLLER'S AUTHORITY TO PRESCRIBE FORMS AND DETERMINE MANNER OF STATING ACCOUNTS. (a) The comptroller of public accounts shall prescribe and prepare the forms to be used by county officials in the collection of county revenue, funds, fees, and other money and in the disbursement of funds. The comptroller shall prescribe the manner of keeping and stating the accounts of the officials.

(b) The comptroller shall prescribe forms that the comptroller considers will meet the needs of different-sized counties. (V.A.C.S. Art. 1656c.)

Sec. 112.004. ACCOUNTS KEPT FOR OFFICERS BY COUNTY CLERK. (a) This section applies only to a county that does not have the office of county auditor.

(b) The county clerk shall keep in the county finance ledger an account for each officer of the county, district, or state who is authorized or required by law to receive or collect money or other property that is intended for the use of the county or that belongs to the county. At the top of each page in an officer's account, the clerk shall state the name of the officer and the title of the office.

(c) The clerk shall keep any other accounts necessary to carry out the purposes of this subtitle and shall conveniently index the accounts.

(d) The clerk shall enter items daily in the proper accounts.

(e) Every financial report and voucher must be filed with the clerk, who shall effectively preserve the report or voucher and note it briefly in the proper account.

(f) The clerk shall balance each account maintained under this section. (V.A.C.S. Arts. 1607 (part), 1608 (part).)

Sec. 112.005. ACCOUNTS KEPT FOR OFFICERS BY COUNTY AUDITOR. (a) The county auditor shall maintain an account for each county, district, or state officer authorized or required by law to receive or collect money or other property that is intended for the use of the county or that belongs to the county.

(b) In the account, the auditor shall detail the items of indebtedness charged against that officer and the manner of discharging the indebtedness.

(c) The auditor shall require each person who receives money that belongs to the county or who has responsibility for the disposition or management of any property of the county to render statements to the auditor. (V.A.C.S. Art. 1663 (part).)

Sec. 112.006. GENERAL OVERSIGHT AUTHORITY OF COUNTY AUDITOR. (a) The county auditor has general oversight of the books and records of a county, district, or state officer authorized or required by law to receive or collect money or other property that is intended for the use of the county or that belongs to the county.

(b) The county auditor shall see to the strict enforcement of the law governing county finances. (V.A.C.S. Art. 1651.)

Sec. 112.007. COUNTY AUDITOR'S RECORDS OF COUNTY FINANCIAL TRANSACTIONS. The county auditor shall keep a general set of records to show all the transactions of the county relating to accounts, contracts, indebtedness of the county, and county receipts and disbursements. (V.A.C.S. Art. 1664 (part).)

Sec. 112.008. MAINTENANCE OF FINANCE RECORDS BY COMMISSIONERS COURT. (a) The commissioners court of a county shall maintain a county finance ledger with an index. The court shall have a full and orderly statement of the condition of the county finances entered in the ledger.

(b) The county finance ledger is open to public inspection. (V.A.C.S. Art. 1607 (part).)

Sec. 112.009. COUNTY AUDITOR PERFORMING DUTIES INSTEAD OF COUNTY CLERK. If a duty imposed by this subtitle on the county auditor is the same or nearly the same as a duty imposed by law on the county clerk, the county clerk is relieved of the duty. (V.A.C.S. Arts. 1663 (part), 1675.)

Sec. 112.010. COUNTY FISCAL YEAR. (a) The county fiscal year is the calendar year unless the commissioners court of the county adopts a different fiscal year as provided by Subsection (b) or (c).

(b) At a regular meeting, the commissioners court of a county may by order adopt as the county fiscal year a one-year period that begins on October 1 of each year.

(c) At a regular meeting, the commissioners court of a county with a population of 2.2 million or more may by order adopt as the county fiscal year a one-year period that begins on October 1 or March 1 of each year. In the order, the commissioners court may provide for the transition from one fiscal year to another by designating an interim fiscal year that may be longer or shorter than a 12-month period.

(d) The commissioners court of a county that has adopted a fiscal year under Subsection (b) or (c) may, by order adopted at a regular meeting, revert to a fiscal year that is the calendar year.

(e) If a law prescribes a certain date or month each year for an action relating to a county budget and the law is based on the assumption that the county fiscal year corresponds to the calendar year, in a county that has a fiscal year other than the calendar year the law shall be construed as prescribing a date or month that bears the same relationship to the beginning of the fiscal year that the specified date or month bears to January 1. (V.A.C.S. Art. 1644e.)

[Sections 112.011–112.030 reserved for expansion]

SUBCHAPTER B. TAX ACCOUNTS AND RECORDS

Sec. 112.031. ACCOUNT FOR TAX ASSESSOR-COLLECTOR. In keeping an account for the county tax assessor-collector, the county clerk must:

(1) keep a separate account for each separate fund on the tax rolls;

(2) state in each separate account the name of the tax assessor-collector, the character of the fund entered on the tax rolls, and the year for which the tax is assessed; and

(3) keep separate and distinct the taxes assessed for each year. (V.A.C.S. Art. 1610.)

Sec. 112.032. RECEIPT FOR TAX ROLLS; CREDITS. (a) When the tax rolls are ready for delivery to the tax assessor-collector, the court or officer that has control of the tax rolls shall obtain a written receipt from the tax assessor-collector for the rolls.

(b) The receipt must specify the amount assessed and due to the county as listed on the tax rolls and shall state separately the amount assessed to each fund.

(c) The court or officer shall deliver the receipt to the county clerk, who shall charge in the proper account in the county finance records the tax assessor-collector with the amount stated in the receipt. Those amounts shall be treated as debts owed to the county by the tax assessor-collector.

(d) The tax assessor-collector shall discharge the indebtedness within the time prescribed by law by filing receipts with the county clerk for the discharged indebtedness as follows:

(1) the commission due to the tax assessor-collector;

(2) proper vouchers for any amount that the tax assessor-collector is required to pay out of money on hand; and

(3) the county treasurer's receipt for the money paid into the treasury. (V.A.C.S. Arts. 1611, 1612.)

Sec. 112.033. **INDIGENT AND DELINQUENT TAX LISTS.** (a) The tax assessor-collector shall make separate lists of indigent and delinquent taxpayers. Each list must show the name of the taxpayer and the amount owed.

(b) The commissioners court shall carefully examine each list and shall, by an order entered on the minutes of the court, state the names of the taxpayers and the amounts that are judged uncollectible.

(c) After the order has been made and entered, the tax assessor-collector is entitled to be credited with the amounts judged uncollectible in the proper accounts in the county finance records. (V.A.C.S. Art. 1613.)

Sec. 112.034. **DELIVERY OF TAX ROLLS TO SUCCESSOR.** (a) On leaving office, the outgoing tax assessor-collector shall deliver the tax rolls in that officer's possession to the successor officer. The successor officer shall give to the outgoing tax assessor-collector a written receipt for the amount of taxes owed on those rolls.

(b) The receipt must specify the amount of each fund and each year separately and must also indicate the amount due on the indigent and delinquent taxpayer lists.

(c) The outgoing tax assessor-collector shall deliver the receipts to the county clerk, who shall enter those allowed by the commissioners court to the credit of the officer who presents them. The clerk shall charge the credited amounts to the successor officer in the proper accounts. (V.A.C.S. Art. 1614.)

Sec. 112.035. **OCCUPATION TAX RECORDS.** (a) The tax assessor-collector shall collect all occupation taxes owed to the county without assessment. That officer shall give the person who pays the tax a written receipt that states the person's name, the occupation for which the tax is imposed, the period for which the tax payment is made, and the amounts collected for the state and for the county.

(b) On presentation of the receipt, the county clerk shall issue the person a license in the name of the state, the county, or both, according to the tax that the person paid, that authorizes the person to engage in the occupation during the period for which the tax is paid.

(c) The county clerk shall keep an occupation tax account for the tax assessor-collector. In the occupation tax account, the clerk shall charge the tax assessor-collector with each license issued for the county. The clerk shall credit the officer with the officer's commissions and with the amount that the officer pays into the treasury after the officer files with the clerk the proper receipt from the county treasurer.

(d) At the end of each month, the county clerk shall make two reports. The clerk shall mail the first report, relating to licenses issued on taxes paid to the state, to the comptroller of public accounts. The clerk shall file the second report, relating to licenses issued on taxes paid to the county, in the clerk's office. Each report must contain the information stated in the tax assessor-collector's receipt for the tax and shall be dated and signed under the clerk's official seal. (V.A.C.S. Art. 1615.)

[Sections 112.036–112.050 reserved for expansion]

SUBCHAPTER C. OTHER SPECIFIC ACCOUNTS

Sec. 112.051. SHERIFF ACCOUNT. (a) The county clerk shall keep an account for the county sheriff that charges the sheriff with each judgment, fine, forfeiture, or penalty that is payable to and rendered in any court of the county and that the sheriff is charged by law to collect. The sheriff may discharge the liability by producing the county treasurer's receipt that shows payment of the judgment, fine, forfeiture, or penalty.

(b) The sheriff may also discharge the liability by showing to the satisfaction of the commissioners court that the judgment, fine, forfeiture, or penalty cannot be collected or that it has been discharged through imprisonment or labor or by escape occurring without the sheriff's fault or neglect. The sheriff must obtain an order of the commissioners court that allows the discharge. (V.A.C.S. Art. 1616.)

Sec. 112.052. JUSTICE OF THE PEACE ACCOUNT. (a) A fine imposed or a judgment rendered by a justice of the peace shall be charged against that justice.

(b) The justice may discharge the indebtedness by:

(1) filing with the county clerk the county treasurer's receipt for the amount of the indebtedness;

(2) showing to the satisfaction of the commissioners court that the justice has used due diligence to collect the amount without avail; or

(3) showing to the satisfaction of the commissioners court that the indebtedness has been satisfied by imprisonment or labor. (V.A.C.S. Art. 1619.)

Sec. 112.053. ESTRAY ACCOUNT. (a) If a notice of an estray is filed with the county clerk, the clerk shall keep an estray account on the debit side of the county finance ledger. The estray account must show the date of the notice, the name of the person who reported the estray, and a brief description of the animal. The clerk shall leave the amount of the charge blank until the sheriff files an account of the sale of the estray.

(b) When the account of the sale is filed, the county clerk shall enter the net amount due to the county from the sale in the blank in the estray account. When the county treasurer's receipt is presented to the clerk, indicating the amount paid into the county treasury because of the sale, the clerk shall enter that amount on the credit side of the estray account, showing the date, the name of the person paying, the amount paid, and a brief description of the animal. The clerk shall then charge that amount on the debit side of the county treasurer's account. (V.A.C.S. Art. 1623.)

Sec. 112.054. COUNTY TREASURER ACCOUNT. (a) The county clerk shall keep an account for the county treasurer in the county finance ledger. In that account, the clerk shall charge the treasurer separately with each amount for which the treasurer gives a receipt to the sheriff, county tax assessor-collector, or other person who pays the amount into the treasury.

(b) The clerk shall credit the treasurer with each amount paid out by the treasurer after the commissioners court has approved the treasurer's report of the payments. The clerk shall also credit the treasurer with the legal commissions of the treasurer's office. (V.A.C.S. Art. 1624.)

CHAPTER 113. MANAGEMENT OF COUNTY MONEY

SUBCHAPTER A. GENERAL PROVISIONS

- ec. 113.001. COUNTY TREASURER AS CHIEF CUSTODIAN OF MONEY
- ec. 113.002. COUNTY TREASURER'S RECORD OF RECEIPTS AND EXPENDITURES
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- ec. 113.043. COUNTERSIGNATURE BY COUNTY AUDITOR
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- ec. 113.045. COMPARISON OF VOUCHERS AND REPORTS; TREASURER TO BE CREDITED
- ec. 113.046. REGISTER OF WARRANTS ISSUED BY JUDGE OR CLERK
- ec. 113.047. DISBURSEMENTS FOR SALARIES OR EXPENSES IN COUNTY WITH POPULATION OF 190,000 OR MORE

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SUBCHAPTER D. SPECIAL PROVISIONS RELATING TO CLAIMS

- ec. 113.061. CLAIMS REGISTER; CLASSES OF CLAIMS
- ec. 113.062. ACKNOWLEDGMENT REQUIRED WHEN CLAIM PAID OR CREDITED
- ec. 113.063. CLAIMS INFORMATION LIST
- ec. 113.064. APPROVAL OF CLAIMS BY COUNTY AUDITOR
- ec. 113.065. REQUIREMENT FOR APPROVAL OF CLAIM
- ec. 113.066. CANCELLATION OF CERTAIN CLAIMS

[Sections 113.067–113.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- ec. 113.901. REQUIREMENTS FOR APPROVAL OF ACCOUNTS AND REQUISITIONS
- ec. 113.902. PROSECUTION TO COLLECT DEBT OWED TO COUNTY

CHAPTER 113. MANAGEMENT OF COUNTY MONEY

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 113.001. COUNTY TREASURER AS CHIEF CUSTODIAN OF MONEY. The county treasurer, as chief custodian of county funds, shall keep in a designated depository

and shall account for all money belonging to the county. (V.A.C.S. Art. 1709 (part); Art. 1709a, Sec. 3 (part).)

Sec. 113.002. COUNTY TREASURER'S RECORD OF RECEIPTS AND EXPENDITURES. The county treasurer shall keep an account of the receipts and expenditures of all money that the treasurer receives by virtue of the office and of all debts due to and owed by the county. The treasurer shall keep accurate, detailed accounts of all the transactions of the treasurer's office. (V.A.C.S. Arts. 1634 (part), 1710 (part).)

Sec. 113.003. RECEIPT OF MONEY BY COUNTY TREASURER. The county treasurer shall receive all money belonging to the county from whatever source it may be derived. (V.A.C.S. Art. 1709 (part); Art. 1709a, Sec. 2 (part).)

Sec. 113.004. CLASSES OF COUNTY FUNDS. (a) The county treasurer shall divide the funds received by the treasurer's office into three classes. The treasurer shall appropriate the money in each class of funds to the payment of the claims registered in the corresponding class of claims.

(b) The classes of funds consist of:

- (1) jury fees, money received from the sale of estrays, and occupation taxes;
- (2) money received under the provisions of a road and bridge law, including penalties recovered from railroads for the failure to repair crossings, and all fines and forfeitures; and
- (3) other money received by the treasurer's office that is not otherwise appropriated by this section or by the commissioners court.

(c) The commissioners court, as it considers proper, may require other accounts to be kept, creating other classes of funds. The court may require scrip to be issued against those accounts and to be registered accordingly.

(d) The commissioners court by order may transfer money on hand from one fund to another as it considers necessary, but amounts that belong to the first class of funds may not be transferred from the payment of claims registered in that class unless there is an excess amount in that class. (V.A.C.S. Arts. 1628, 1629, 1630.)

Sec. 113.005. LIABILITY OF COUNTY TREASURER. The county treasurer is not responsible for any loss of the county funds through the failure or negligence of a depository. This section does not release the treasurer from responsibility for a loss resulting from the official misconduct or negligence of the treasurer, including a misappropriation of the funds, or from responsibility for funds until a depository is selected and the funds are deposited. (V.A.C.S. Art. 1709a, Sec. 3 (part); Art. 2557.)

Sec. 113.006. LIABILITY OF COUNTY TAX ASSESSOR-COLLECTOR. A county tax assessor-collector and any surety on the assessor-collector's bond are relieved of responsibility for safekeeping funds collected from taxes after the funds are deposited as required by law with the county depository. (V.A.C.S. Art. 2549, Sec. (a) (part).)

[Sections 113.007–113.020 reserved for expansion]

SUBCHAPTER B. DEPOSIT OF MONEY

Sec. 113.021. REQUIREMENT THAT MONEY BE DEPOSITED WITH COUNTY TREASURER AND PUT INTO SPECIAL FUND; INTEREST. (a) The fees, commissions, funds, and other money belonging to a county shall be deposited with the county treasurer by the officer who collects the money. The officer must deposit the money in accordance with any applicable procedures prescribed by or under Section 112.001 or 112.002. However, the county tax assessor-collector must deposit the money in accordance with the procedures prescribed by or under the Tax Code and other laws.

(b) The county treasurer shall deposit the money in the county depository in a special fund to the credit of the officer who collected the money. If the money is fees, commissions, or other compensation collected by an officer who is paid on a salary basis, the appropriate special fund is the applicable salary fund created under Chapter 154.

(c) The interest accruing on the money in the special fund is for the benefit of the county in accordance with other law. (V.A.C.S. Art. 1656a (part); Art. 1709a, Secs. 2 (part), 3 (part); Art. 3898 (part); Art. 3912e, Sec. 5A (part).)

Sec. 113.022. **TIME FOR MAKING DEPOSITS.** A county officer who receives funds shall deposit the funds with the county treasurer on or before the next regular business day after the date on which the funds are received. If this deadline is not met, the officer must deposit the funds, without exception, on or before the seventh business day after the day on which the funds are received. However, in a county with fewer than 50,000 inhabitants, the commissioners court may extend the period during which funds must be deposited with the county treasurer, but the period may not exceed 30 days after the date the funds are received. (V.A.C.S. Art. 1709a, Sec. 2 (part).)

Sec. 113.023. **DEPOSIT WARRANTS.** (a) Except as provided by Subsection (c), each deposit made in the county treasury must be made on a deposit warrant issued in triplicate by the county clerk. The deposit warrant authorizes the county treasurer to receive the amount stated in the warrant. The warrant must state the purpose for which the amount is received and the fund to which it is to be applied.

(b) The county treasurer shall keep the original of the warrant. The duplicate shall be signed and returned to the county clerk. The triplicate shall be signed and returned to the depositor. If the county has a county auditor, the county clerk shall give the clerk's copy of the warrant to the auditor, and the auditor shall enter the amount in the auditor's books, charging the amount to the county treasurer and crediting the person who deposited the amount. The treasurer may receive money only through this procedure except as provided by Subsection (c).

(c) In a county with more than 1.2 million inhabitants, the county clerk is relieved of all duties under Subsections (a) and (b). In any other county that has the office of county auditor, the commissioners court by order may relieve the county clerk of all duties under Subsections (a) and (b). If the county clerk is relieved of duties, the county treasurer shall receive all deposits that are made in the county treasury. The county treasurer shall prepare a receipt in triplicate for all money received. The treasurer shall keep one copy of the receipt and shall transmit the original to the county auditor and the other copy to the depositor. The county auditor shall prescribe a system, not inconsistent with this subsection, to be used by the county treasurer for receiving and depositing money. (V.A.C.S. Art. 1657; Art. 1657a; Art. 1709a, Sec. 2 (part).)

Sec. 113.024. **DEPOSIT OF MONEY DOES NOT AFFECT OWNERSHIP.** The deposit of money in a county treasury does not change the ownership of the money, except to indemnify the officer and the officer's surety, or any other owner of the money, during the period of deposit with the county. (V.A.C.S. Art. 1656a (part); Art. 1709a, Sec. 2 (part).)

[Sections 113.025–113.040 reserved for expansion]

SUBCHAPTER C. DISBURSEMENT OF MONEY

Sec. 113.041. **DISBURSEMENT OF MONEY BY COUNTY TREASURER; PAYMENT BY CHECK OR WARRANT; LOST OR DESTROYED INSTRUMENT.** (a) The county treasurer shall disburse the money belonging to the county and shall pay and apply the money as required by law and as the commissioners court may require or direct, not inconsistent with law.

(b) A person may not spend or withdraw money from the county treasury except by a check or warrant drawn on the county treasury, whether or not the money is in a county depository as required by law.

(c) The county treasurer may not pay money out of the county treasury without a certificate or warrant from an officer who is authorized by law to issue the certificate or warrant.

(d) If the treasurer doubts the legality or propriety of an order, decree, certificate, or warrant presented to the treasurer for payment, the treasurer may not make the payment. The treasurer shall report the matter to the commissioners court for the court's consideration and direction.

(e) If the treasurer is satisfied that an original check or other order drawn on the county treasury by a proper authority is lost or destroyed, the treasurer may issue a duplicate instrument in place of the original. The treasurer may not issue a duplicate until an applicant has filed an affidavit with the treasurer that states that the applicant is the true owner of the original instrument and that the original is lost or destroyed.

(f) The treasurer may require an applicant for a duplicate instrument to execute a bond with two or more good and sufficient sureties in an amount that is double the amount of the claim. The bond must be:

- (1) notarized;
- (2) made payable to the county judge;
- (3) conditioned that the applicant will hold the county harmless;
- (4) conditioned that the applicant will return to the treasurer on demand by the treasurer the duplicate instrument or the amount of money named in the duplicate, including any costs that accrue against the county in collecting the amount; and
- (5) approved by the treasurer.

(g) If, after issuance of the duplicate instrument, the treasurer determines that the duplicate was issued improperly or that the applicant or person to whom the duplicate was issued is not the owner of the original instrument, the treasurer shall immediately demand the return of the duplicate, if it is unpaid, or the return of the amount paid by the county, if the duplicate is paid. If the person fails to return the duplicate instrument or the amount of the instrument, the treasurer shall institute a suit on the bond through the office of the county or district attorney. Venue for the suit lies in the county in which the treasurer serves. (V.A.C.S. Art. 1709 (part); Art. 1709a, Sec. 4 (part); Art. 1713.)

Sec. 113.042. ENDORSEMENT BY COUNTY TREASURER; OTHER WARRANT REQUIREMENTS. (a) On the presentation of a warrant, check, voucher, or order drawn by a proper authority, and if there are sufficient funds for payment on deposit in the account against which the instrument is drawn, the county treasurer shall endorse on the face of the instrument the order to pay the named payee and shall charge the amount in the treasurer's records to the fund on which it is drawn.

(b) The county treasurer may not issue and the county depository may not pay a check drawn on the county depository to take up a warrant drawn by a proper authority, but the county treasurer shall, on the presentation of the warrant, endorse the warrant and deliver it to the payee, who may present it to the county depository for payment.

(c) The treasurer may not endorse an instrument designated as a time deposit until after the notice and time requirements in the depository contract that designates the funds as time deposits are met.

(d) If a bond, coupon, or other instrument is payable on its own terms at any place other than the county treasury, this section does not prevent the commissioners court from ordering the treasurer to place a sufficient sum at the location where the instrument is payable at the time and place of its maturity, as long as the payment is made in the manner prescribed by law.

(e) Each check or warrant issued or drawn by an officer under the provisions of this section is subject to all laws and rules relating to auditing and countersigning.

(f) Each warrant or scrip issued against the county treasurer by a judge or court must be signed and attested by the clerk or judge of the court under that officer's official seal.

(g) A justice of the peace may not issue warrants against the county treasury for any purpose except as may be provided by the Code of Criminal Procedure. (V.A.C.S. Art. 1643; Art. 1709a, Sec. 4 (part); Art. 2554 (part).)

Sec. 113.043. COUNTERSIGNATURE BY COUNTY AUDITOR. In a county with a county auditor, the county treasurer and the county depository may not pay a check or warrant unless it is countersigned by the county auditor to validate it as a proper and budgeted item of expenditure. This section does not apply to a check or warrant for jury service. (V.A.C.S. Art. 1656a (part); Art. 1661, Sec. 1 (part); Art. 1709a, Sec. 4 (part).)

Sec. 113.044. **WARRANTS TO BE PUNCHED.** At the time the county treasurer pays a warrant, the treasurer shall punch the warrant. (V.A.C.S. Art. 1634 (part).)

Sec. 113.045. **COMPARISON OF VOUCHERS AND REPORTS; TREASURER TO BE CREDITED.** The county treasurer shall present to the commissioners court the vouchers relating to and accompanying each financial report for comparison with the report. All proper vouchers shall be allowed and the treasurer shall be credited with the amount of the vouchers. (V.A.C.S. Art. 1634 (part).)

Sec. 113.046. **REGISTER OF WARRANTS ISSUED BY JUDGE OR CLERK.** (a) The county auditor shall maintain a register of the warrants issued on the county treasurer by a judge or by the district or county clerk. A register entry for a warrant must indicate the date of payment by the treasurer.

(b) On a form prepared by the auditor, the clerk or judge shall furnish the auditor with a daily itemized report that specifies the warrants issued, the number of warrants, the amounts of the warrants, the names of the persons to whom the warrants are payable, and the purposes of the warrants. (V.A.C.S. Art. 1662.)

Sec. 113.047. **DISBURSEMENTS FOR SALARIES OR EXPENSES IN COUNTY WITH POPULATION OF 190,000 OR MORE.** After the deposit of funds in a county depository, an officer in a county with a population of 190,000 or more may draw checks on the county treasurer to disburse the funds as payment for a salary or expenses authorized by law or in payment to the county or to the person to whom the funds belong. (V.A.C.S. Art. 1656a (part).)

[Sections 113.048–113.060 reserved for expansion]

SUBCHAPTER D. SPECIAL PROVISIONS RELATING TO CLAIMS

Sec. 113.061. **CLAIMS REGISTER; CLASSES OF CLAIMS.** (a) The county treasurer shall maintain a record in which the treasurer shall register each claim against the county. The treasurer shall register the claims in the order in which they are presented. If more than one claim is presented at the same time, the treasurer shall register them in the order of their date.

(b) The county treasurer may not pay a claim, or any part of it, until the claim has been registered. An officer may not receive a claim, or any part of it, in payment of any indebtedness owed to the county until the claim has been registered.

(c) The county treasurer shall register claims in one of the following classes:

- (1) scrip issued to pay or feed jurors;
- (2) scrip issued under a road law or for work done on roads and bridges; or
- (3) general county indebtedness, including debts incurred for feeding and guarding prisoners and for claims by paupers.

(d) The treasurer shall pay each claim in each class in the order in which it is registered.

(e) The treasurer's register entry for each claim must state:

- (1) the class of the claim;
- (2) the name of the payee;
- (3) the amount of the claim;
- (4) the date of the claim;
- (5) the date of the registration;
- (6) the claim registration number;
- (7) the authority under which the claim was issued; and
- (8) the service for which the claim was issued.

(f) The treasurer shall indicate the claim registration number and the date of the registration on the face of the claim. The treasurer shall write the word "Registered" on the claim and shall officially sign the claim or place the treasurer's approved facsimile

signature on the claim. (V.A.C.S. Art. 1625; Art. 1626; Art. 1627; Art. 1709a, Sec. 4 (part).)

Sec. 113.062. **ACKNOWLEDGMENT REQUIRED WHEN CLAIM PAID OR CREDITED.** The county treasurer or any other officer who disburses money for the county or who receives county claims in payment of dues of any kind shall require the person who receives the payment or the credit for the payment, or that person's agent or attorney, to acknowledge in writing on the face of the claim the receipt of the amount paid or credited. (V.A.C.S. Art. 1632.)

Sec. 113.063. **CLAIMS INFORMATION LIST.** (a) Each officer who collects a fine, penalty, forfeiture, judgment, tax, or other indebtedness owed to the county in a claim against the county shall keep a descriptive list of those claims. When the officer reports the collection, the officer shall file with the report a list that states:

- (1) the party in whose favor the claim was issued;
- (2) the class and register number of the claim;
- (3) the name of the party paying in the claim;
- (4) the amount received; and
- (5) the purpose for which the amount was received.

(b) The officer shall give the claims and the report to the county treasurer, who shall give the officer a receipt. The treasurer shall file the list with the treasurer's report in the office of the county clerk. (V.A.C.S. Art. 1633.)

Sec. 113.064. **APPROVAL OF CLAIMS BY COUNTY AUDITOR.** (a) In a county that has the office of county auditor, each claim, bill, and account against the county must be filed in sufficient time for the auditor to examine and approve it before the meeting of the commissioners court. A claim, bill, or account may not be allowed or paid until it has been examined and approved by the auditor.

(b) The auditor shall stamp each approved claim, bill, or account. If the auditor considers it necessary, the auditor may require that a claim, bill, or account be verified by an affidavit indicating its correctness.

(c) The auditor may administer oaths for the purposes of this section. (V.A.C.S. Art. 1660; Art. 1709a, Sec. 4 (part).)

Sec. 113.065. **REQUIREMENT FOR APPROVAL OF CLAIM.** The county auditor may not audit or approve a claim unless the claim was incurred as provided by law. (V.A.C.S. Art. 1661, Sec. 1 (part).)

Sec. 113.066. **CANCELLATION OF CERTAIN CLAIMS.** The commissioners court shall cancel a claim presented as a voucher and determined by the court to be correct by stamping or writing the word "canceled" on the face of the voucher. The county clerk shall attest to the cancellation by officially signing the voucher. (V.A.C.S. Art. 1635.)

[Sections 113.067–113.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 113.901. **REQUIREMENTS FOR APPROVAL OF ACCOUNTS AND REQUISITIONS.** (a) Except as provided by Subsection (c), a county auditor may not audit or approve an account for the purchase of supplies or materials for the use of the county or of a county officer unless a requisition, signed by the officer ordering the supplies or materials and approved by the county judge, is attached to the account. The requisition requirement is in addition to any other requirements of law.

(b) The requisition must be made, signed, and approved in triplicate. The original must be delivered to the person from whom the purchase is to be made before the purchase is made. The duplicate copy must be filed with the county auditor. The triplicate copy must remain with the officer requesting the purchase.

(c) The county judge of a county that has the office of county auditor may, by a written order, waive the requirement of the county judge's approval of requisitions. The order must be recorded in the minutes of the commissioners court. If the approval of the

county judge is waived, all claims must be approved by the commissioners court in open court. (V.A.C.S. Art. 1661, Secs. 1 (part), 2.)

Sec. 113.902. PROSECUTION TO COLLECT DEBT OWED TO COUNTY. The county treasurer shall direct prosecution for the recovery of any debt owed to the county, as provided by law, and shall supervise the collection of the debt. (V.A.C.S. Art. 1710 (part).)

CHAPTER 114. COUNTY FINANCIAL REPORTS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 114.001. GENERAL REQUIREMENTS APPLICABLE TO REPORTS
 Sec. 114.002. COUNTY AUDITOR'S AUTHORITY TO DETERMINE TIME AND MANNER OF REPORTS MADE TO AUDITOR
 Sec. 114.003. PENALTY FOR FAILURE TO FURNISH COUNTY AUDITOR WITH REPORT; REMOVAL

[Sections 114.004–114.020 reserved for expansion]

SUBCHAPTER B. REPORTS ABOUT GENERAL FINANCIAL CONDITION OF COUNTY

- Sec. 114.021. COUNTY CLERK'S REPORT TO COMMISSIONERS COURT AT REGULAR TERM
 Sec. 114.022. COUNTY CLERK'S ANNUAL FINANCIAL EXHIBIT
 Sec. 114.023. COUNTY AUDITOR'S MONTHLY REPORT TO COMMISSIONERS COURT IN COUNTY WITH POPULATION OF MORE THAN 225,000
 Sec. 114.024. COUNTY AUDITOR'S REPORT TO COMMISSIONERS COURT AT REGULAR MEETING
 Sec. 114.025. COUNTY AUDITOR'S MONTHLY AND ANNUAL REPORTS TO COMMISSIONERS COURT AND DISTRICT JUDGES
 Sec. 114.026. COUNTY TREASURER'S REPORT TO COMMISSIONERS COURT AT REGULAR TERM

[Sections 114.027–114.040 reserved for expansion]

SUBCHAPTER C. REPORTS ABOUT MONEY COLLECTED OR RECEIVED

- Sec. 114.041. STATEMENT OF FEES, COMMISSIONS, AND OTHER MONEY RECEIVED BY OFFICERS
 Sec. 114.042. IMMEDIATE REPORT TO COUNTY CLERK BY OFFICER WHO COLLECTS MONEY
 Sec. 114.043. PERIODIC REPORT TO COUNTY AUDITOR BY OFFICER WHO HAS CUSTODY OF MONEY IN COUNTY WITH POPULATION OF 190,000 OR MORE
 Sec. 114.044. REPORT TO COMMISSIONERS COURT AT REGULAR TERM BY OFFICER WHO COLLECTS FINES, JUDGMENTS, OR JURY FEES
 Sec. 114.045. DISTRICT ATTORNEY'S REPORT TO COUNTY CLERK AT EACH TERM; COUNTY ATTORNEY'S MONTHLY REPORT
 Sec. 114.046. ANNUAL REPORT TO DISTRICT CLERK BY OFFICER ON FEE BASIS WHO COLLECTS FEES OR COMMISSIONS; REMOVAL

[Sections 114.047–114.060 reserved for expansion]

SUBCHAPTER D. MISCELLANEOUS REPORTS

- Sec. 114.061. COUNTY TREASURER'S MONTHLY CLAIMS REPORT TO COUNTY CLERK

CHAPTER 114. COUNTY FINANCIAL REPORTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 114.001. GENERAL REQUIREMENTS APPLICABLE TO REPORTS. (a) Each report required under this subtitle must be made in writing and must be sworn to by the officer making the report before an officer authorized to administer oaths.

(b) A monthly report must be filed within five days after the last day of each month. (V.A.C.S. Art. 1642.)

Sec. 114.002. COUNTY AUDITOR'S AUTHORITY TO DETERMINE TIME AND MANNER OF REPORTS MADE TO AUDITOR. The county auditor shall determine:

- (1) the time and manner for making reports to the auditor; and
- (2) the manner for making an annual report of:
 - (A) office fees collected and disbursed; and
 - (B) the amount of office fees refunded to the county in excess of those that the officer is permitted by law to keep. (V.A.C.S. Art. 1656 (part).)

Sec. 114.003. PENALTY FOR FAILURE TO FURNISH COUNTY AUDITOR WITH REPORT; REMOVAL. (a) A county official or other person who is required under this subtitle to provide a report, statement, or other information to the county auditor and who intentionally refuses to comply with a reasonable request of the county auditor relating to the report, statement, or information, commits an offense.

- (b) An offense under this section is a misdemeanor punishable by:
- (1) a fine of not less than \$25 or more than \$200;
 - (2) removal from office; or
 - (3) both a fine and removal from office. (V.A.C.S. Art. 1663a.)

[Sections 114.004–114.020 reserved for expansion]

SUBCHAPTER B. REPORTS ABOUT GENERAL FINANCIAL CONDITION OF COUNTY

Sec. 114.021. COUNTY CLERK'S REPORT TO COMMISSIONERS COURT AT REGULAR TERM. (a) In a county that does not have the office of county auditor, the county clerk shall present a tabular statement at each regular term of the commissioners court. The clerk shall present the statement during the second day of the court's term.

(b) In the statement, the clerk shall report on the condition of the county finances for the three-month period preceding the month in which the court meets in regular session. In the statement, the clerk shall specify:

- (1) the names of the creditors of the county;
- (2) each item of county indebtedness with its respective date of accrual;
- (3) the name of each person to whom money has been paid and the amount paid; and
- (4) the name of each person from whom money has been received, the date of the receipt, and the name of the account for which it is received.

(c) The clerk shall list separately the amount to the credit or debit of each fund. (V.A.C.S. Art. 1608 (part).)

Sec. 114.022. COUNTY CLERK'S ANNUAL FINANCIAL EXHIBIT. (a) Immediately after the first regular term of the commissioners court in the year, the county clerk shall publish an exhibit that shows the aggregate amount paid from each fund for the four preceding quarters and the balance to the debit or credit of each fund. The exhibit must also list:

- (1) the amount of the county indebtedness;
- (2) the respective dates of accrual of that indebtedness;
- (3) to whom the debt is owed;
- (4) the reason for the debt; and
- (5) the amount to the debit or credit of each officer or other person with whom an account is kept in the county finance records.

(b) The county clerk shall publish the exhibit once in a weekly newspaper that is published in the county. The commissioners court shall order the payment of the publication costs from the general fund of the county. If no paper is published in the county, the clerk shall post a copy of the exhibit in each commissioner's precinct. One

must be posted at the courthouse door, and one must be posted at public places in each of the other three commissioners' precincts. (V.A.C.S. Art. 1609.)

Sec. 114.023. COUNTY AUDITOR'S MONTHLY REPORT TO COMMISSIONERS COURT IN COUNTY WITH POPULATION OF MORE THAN 225,000. (a) In a county with a population of more than 225,000, the county auditor shall report to the commissioners court at least monthly on the financial condition of the county. The auditor shall prescribe the form of the report.

(b) In addition to information considered necessary by the auditor or required by the commissioners court, the report must contain:

- (1) all of the facts of interest related to the financial condition of the county;
- (2) a consolidated balance sheet;
- (3) a complete statement of the balances on hand at the beginning and end of the month;
- (4) a statement of the aggregate receipts and disbursements of each fund;
- (5) a statement of transfers to and from each fund;
- (6) a statement of the bond and warrant indebtedness with corresponding rates of interest; and
- (7) a summarized budget statement that shows:
 - (A) the expenses paid from the budget for each budgeted officer, department, or institution during that month and for the period of the fiscal year inclusive of the month for which the report is made;
 - (B) the encumbrances against the budgets; and
 - (C) the amounts available for further expenditures.

(c) The county auditor shall publish a condensed copy of the report showing the condition of funds and budgets and a statement of the auditor's recommendations. The publication must be made once in a daily paper published in the county. (V.A.C.S. Art. 1666a, Sec. (f).)

Sec. 114.024. COUNTY AUDITOR'S REPORT TO COMMISSIONERS COURT AT REGULAR MEETING. At each regular meeting of the commissioners court, the county auditor shall present a tabulated report of:

- (1) the county's receipts and disbursements of funds; and
- (2) the accounts of the county. (V.A.C.S. Art. 1664 (part).)

Sec. 114.025. COUNTY AUDITOR'S MONTHLY AND ANNUAL REPORTS TO COMMISSIONERS COURT AND DISTRICT JUDGES. (a) The county auditor shall make monthly and annual reports to the commissioners court and to the district judges of the county. Each report must show:

- (1) the aggregate amounts received and disbursed from each county fund;
- (2) the condition of each account on the books;
- (3) the amount of county, district, and school funds on deposit in the county depository;
- (4) the amount of county bonded indebtedness and other indebtedness; and
- (5) any other fact of interest, information, or suggestion that the auditor considers proper or that the court or district judges require.

(b) The annual report must include a record of all transactions made during a calendar year. The auditor shall file the annual report at a regular or special term of the commissioners court held during the month of April of the following year. The auditor shall file a copy of the report with the district judges of the county.

(c) At the time the annual audit is delivered to the commissioners court and the district judges, the auditor shall send to the bonding company of each district, county, and precinct officer a report indicating the condition of that person's office. (V.A.C.S. Art. 1665.)

Sec. 114.026. COUNTY TREASURER'S REPORT TO COMMISSIONERS COURT AT REGULAR TERM. (a) At each regular term of the commissioners court, the county treasurer shall make a detailed report of:

- (1) money received and disbursed;
- (2) debts due to and owed by the county; and
- (3) all other proceedings in the treasurer's office.

(b) At each regular term of the commissioners court, the county treasurer shall exhibit the books and accounts of the treasurer's office for the inspection of the court and shall submit the vouchers relating to the books and accounts for audit and approval.

(c) After the commissioners court has compared and examined the treasurer's report and has determined that the report is correct, the court shall enter an order in its minutes approving the report. The order must separately state the amount received and paid from each fund since the county treasurer's preceding report and any balance remaining in the treasurer's custody. The court shall properly credit the treasurer's accounts.

(d) Before the adjournment of each regular term of the commissioners court, the county judge and each county commissioner shall give an affidavit stating that the requirements of Subsection (c) have been met at that term. The affidavit must state the amount of the cash and other assets that are in the custody of the county treasurer at the time of the examination. The affidavits must be filed with the county clerk and must be recorded in the minutes of the court for the term in which the affidavits are filed. The affidavits must be published once in a newspaper published in the county if there is such a newspaper. (V.A.C.S. Arts. 1636 (part), 1711.)

[Sections 114.027–114.040 reserved for expansion]

SUBCHAPTER C. REPORTS ABOUT MONEY COLLECTED OR RECEIVED

Sec. 114.041. STATEMENT OF FEES, COMMISSIONS, AND OTHER MONEY RECEIVED BY OFFICERS. (a) In a county with a population of 190,000 or less, a district, county, or precinct officer shall keep, as part of a record provided for the purpose, a statement of the fees earned by the officer and of the money received by the officer as deposits for costs, trust fund deposits in the registry of a court, fees of office, and commissions. The officer must make an entry in the record when the fees or commissions are earned or the deposits are made and when the money is received. The county auditor or, if the county does not have a county auditor, the commissioners court shall annually examine the records and accounts of each officer and report the findings of the examination to the next grand jury or district court.

(b) In a county with a population of more than 190,000, a district, county, or precinct officer shall keep, as part of a record provided for the purpose by the proper county authorities, a statement of the amounts earned by the officer and of the money received by the officer as fees, commissions, or costs. The officer must make an entry in the record when the fees, commissions, or costs are earned and when they are received. (V.A.C.S. Art. 3896; Art. 3912e, Sec. 19(n).)

Sec. 114.042. IMMEDIATE REPORT TO COUNTY CLERK BY OFFICER WHO COLLECTS MONEY. (a) Except as otherwise provided by law, an officer who collects money belonging to and for the use of a county shall immediately report the collection to the county clerk. The officer shall fully state in the report:

- (1) from whom the money was collected;
- (2) the amount collected;
- (3) the time of the collection; and
- (4) under what authority or process the money was collected.

(b) The officer shall file with the report required by this section any applicable claims information list required by Section 113.063.

(c) On receipt of the report, the county clerk shall charge the amount to the officer in the county finance records. The officer may discharge the amount by presenting the county treasurer's receipt for the amount. (V.A.C.S. Art. 1622.)

Sec. 114.043. PERIODIC REPORT TO COUNTY AUDITOR BY OFFICER WHO HAS CUSTODY OF MONEY IN COUNTY WITH POPULATION OF 190,000 OR MORE.

In a county with a population of 190,000 or more, the county auditor may require a district clerk, district attorney, county officer, or precinct officer to furnish monthly reports, annual reports, or other reports regarding any money, tax, or fee received, disbursed, or remaining on hand. In connection with those reports, the auditor may count the cash in the custody of the officer or verify the amount on deposit in the bank in which the officer has deposited the cash for safekeeping. (V.A.C.S. Art. 1656a (part).)

Sec. 114.044. REPORT TO COMMISSIONERS COURT AT REGULAR TERM BY OFFICER WHO COLLECTS FINES, JUDGMENTS, OR JURY FEES. (a) Each district clerk, county clerk, county judge, county treasurer, sheriff, district attorney, county attorney, constable, or justice of the peace who collects or handles any money for the use of the county shall make a full report at each regular term to the commissioners court on all fines imposed and collected, all judgments rendered and collected for the use of the county, and all jury fees collected by the respective courts in favor of or for the use of the county and, at the time of the report, shall present the receipts and vouchers that show the disposition of the money, fines, or judgments.

(b) Each report must fully state:

(1) the name of the person fined and the amount of the fine or the name of the person against whom judgment was rendered and the amount of the judgment;

(2) the style, number, and date of each case in which a fine was imposed or a judgment rendered; or

(3) the amount of the jury fees collected, the style and number of the case in which each jury fee was collected, and the name of the person from whom the fee was collected.

(c) The court shall carefully examine the reports, receipts, and vouchers. If the court finds them to be correct, the court shall direct the county clerk to enter the information in the county finance records. If they are found to be incorrect, the court shall summon before the court the officer making the report and shall have corrections made. The reports, receipts, and vouchers shall be filed in the county clerk's office. (V.A.C.S. Arts. 1617, 1618.)

Sec. 114.045. DISTRICT ATTORNEY'S REPORT TO COUNTY CLERK AT EACH TERM; COUNTY ATTORNEY'S MONTHLY REPORT. (a) At each term of a district court, the district attorney shall make a report to the county clerk of each county in the district relating to all money received since the last term of the district court by the district attorney for the use of the county.

(b) Each county attorney shall make a similar report to the county clerk at the end of each month. (V.A.C.S. Art. 1620.)

Sec. 114.046. ANNUAL REPORT TO DISTRICT CLERK BY OFFICER ON FEE BASIS WHO COLLECTS FEES OR COMMISSIONS; REMOVAL. (a) If a county officer is compensated on a fee basis, the officer shall file an annual report in triplicate with the district court of the county. The report must be filed on or before the first day of the second month of the fiscal year, must be on a form prescribed by the state auditor, and must show:

(1) the amount of the fees, commissions, and compensation that the officer earned during the preceding fiscal year;

(2) the amount of the fees, commissions, and compensation that the officer collected during that year; and

(3) an itemized statement of the fees, commissions, and compensation that the officer earned but did not collect during that year, with the name of the party owing each item.

(b) Within 30 days after the date on which the officer files the report, the clerk of the district court shall forward a copy of the report to the state auditor and the county auditor. If the county does not have a county auditor, the clerk shall forward a copy of the report to the commissioners court.

(c) A county tax assessor-collector who files the report with the district clerk shall also file a copy of the report with the comptroller of public accounts at the time of settlement with the comptroller.

(d) An officer who fails to file the report in the time prescribed by Subsection (a) is liable for a penalty of \$25 for each day after the deadline that the report remains unfiled

and is subject to removal from office. The county may recover the penalty in a suit brought for that purpose.

(e) An officer shall make a final settlement before the deadline for filing the report. An officer who serves only part of the fiscal year shall file the report and make a final settlement for the part of the year that the officer served, and the officer is entitled to the part of the officer's compensation proportionate to the part of the year served. (V.A.C.S. Arts. 3897, 3898 (part), 3901.)

[Sections 114.047–114.060 reserved for expansion]

SUBCHAPTER D. MISCELLANEOUS REPORTS

Sec. 114.061. COUNTY TREASURER'S MONTHLY CLAIMS REPORT TO COUNTY CLERK. (a) At the end of each month, the county treasurer shall file in the office of the county clerk a claims report that shows the total amount of claims registered by the county treasurer during the month. The treasurer shall report each class of claims separately.

(b) The county clerk shall enter the claims report in the county finance ledger under the heading of "Registered indebtedness of the county." The clerk shall keep a separate account of each class of indebtedness.

(c) From the reports made by the treasurer of disbursements, the clerk shall credit the accounts with the total amount of vouchers of each class of claims paid. (V.A.C.S. Art. 1631.)

CHAPTER 115. AUDIT OF COUNTY FINANCES

SUBCHAPTER A. AUDIT AUTHORITY OF COUNTY AUDITOR

- Sec. 115.001. EXAMINATION OF RECORDS
- Sec. 115.002. EXAMINATION OF BOOKS AND REPORTS
- Sec. 115.003. EXAMINATION OF FUNDS HELD BY COUNTY TREASURER
- Sec. 115.004. AUDIT IN COUNTY WITH POPULATION OF 190,000 OR MORE

[Sections 115.005–115.020 reserved for expansion]

SUBCHAPTER B. AUDIT AUTHORITY OF COMMISSIONERS COURT

- Sec. 115.021. AUDIT AND SETTLEMENT OF ACCOUNTS
- Sec. 115.022. EXAMINATION OF ACCOUNTS AND REPORTS; SETTLEMENT

[Sections 115.023–115.030 reserved for expansion]

SUBCHAPTER C. INDEPENDENT AUDIT AUTHORITY
GENERALLY APPLICABLE

- Sec. 115.031. AUDIT BY ACCOUNTANT
- Sec. 115.032. SPECIAL AUDIT AFTER VOTER PETITION
- Sec. 115.033. AUDIT BY FINANCE COMMITTEE

[Sections 115.034–115.040 reserved for expansion]

SUBCHAPTER D. INDEPENDENT AUDIT AUTHORITY OF SPECIFIC COUNTIES

- Sec. 115.041. INDEPENDENT AUDIT IN COUNTY WITHOUT OFFICE OF COUNTY AUDITOR
- Sec. 115.042. AUDIT IN COUNTIES WITH POPULATION LESS THAN 25,000
- Sec. 115.043. AUDIT BY ACCOUNTANT IN COUNTIES WITH POPULATION OF 40,000 TO 100,000
- Sec. 115.044. BIENNIAL INDEPENDENT AUDIT IN COUNTIES WITH POPULATION OF 160,000 TO 170,000
- Sec. 115.045. ANNUAL INDEPENDENT AUDIT IN COUNTIES WITH POPULATION OF 350,000 OR MORE

[Sections 115.046–115.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 115.901. EXAMINATION OF CERTAIN RECORDS BY COUNTY TREASURER

CHAPTER 115. AUDIT OF COUNTY FINANCES

SUBCHAPTER A. AUDIT AUTHORITY OF COUNTY AUDITOR

Sec. 115.001. EXAMINATION OF RECORDS. The county auditor shall have continual access to and shall examine and investigate the correctness of:

- (1) the books, accounts, reports, vouchers, and other records of any officer;
- (2) the orders of the commissioners court relating to county finances; and
- (3) the vouchers given by the trustees of all common school districts of the county.

(V.A.C.S. Art. 1653.)

Sec. 115.002. EXAMINATION OF BOOKS AND REPORTS. (a) The county auditor shall carefully examine and report on all reports that are about the collection of money for the county and that are required to be made to the commissioners court.

(b) At least once each quarter, the county auditor shall check the books and shall examine in detail the reports of the county tax assessor-collector, the county treasurer, and all other officers. The auditor shall verify the footings and the correctness of those books and reports. The auditor shall either stamp the books and reports approved or shall note any differences, errors, or discrepancies.

(c) The auditor shall carefully examine the report made under Section 114.026 by the county treasurer, together with the canceled warrants that have been paid. The auditor shall verify those warrants with the register of warrants issued as shown on the auditor's books. (V.A.C.S. Art. 1654; Art. 1709a, Sec. 3 (part).)

Sec. 115.003. EXAMINATION OF FUNDS HELD BY COUNTY TREASURER. (a) At least once each quarter, or more often if the county auditor desires, the auditor shall, without advance notice, fully examine the condition of, or shall inspect and count, the cash held by the county treasurer or held in a bank in which the treasurer has placed the cash for safekeeping.

(b) The auditor shall make sure that all balances to the credit of the various funds are actually on hand in cash and that none of the funds are invested in any manner except as authorized by law. (V.A.C.S. Art. 1655; Art. 1709a, Sec. 3 (part).)

Sec. 115.004. AUDIT IN COUNTY WITH POPULATION OF 190,000 OR MORE. (a) This section applies only to a county with a population of 190,000 or more.

(b) At the end of the fiscal year or the accounting period fixed by law, the county auditor shall audit, adjust, and settle the accounts of the district attorney, the district clerk, and each county or precinct officer.

(c) If the county auditor is unable to obtain proper reports or an adequate accounting from any of those persons, either during or after the person's term of office, the auditor may require an accounting and may proceed at the county's expense as the auditor considers necessary to protect the interest of the county or of the person entitled to any funds. (V.A.C.S. Art. 1656a (part).)

[Sections 115.005–115.020 reserved for expansion]

SUBCHAPTER B. AUDIT AUTHORITY OF COMMISSIONERS COURT

Sec. 115.021. AUDIT AND SETTLEMENT OF ACCOUNTS. The commissioners court of a county shall audit and settle all accounts against the county and shall direct the payment of those accounts. (V.A.C.S. Art. 2351, Subdiv. 10, as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 115.022. EXAMINATION OF ACCOUNTS AND REPORTS; SETTLEMENT. (a) At each regular term, the commissioners court shall examine all accounts and reports that relate to the county finances and shall compare the accounts and reports with the accompanying vouchers. The court shall see that any errors in the accounts and reports are corrected.

(b) The court shall see that all orders made by the court that relate to the accounts and reports are entered in the minutes of the court and that the orders are noted on the accounts and reports. (V.A.C.S. Art. 1637.)

[Sections 115.023–115.030 reserved for expansion]

SUBCHAPTER C. INDEPENDENT AUDIT AUTHORITY
GENERALLY APPLICABLE

Sec. 115.031. AUDIT BY ACCOUNTANT. (a) If considered by the commissioners court of a county to be justified by an imperative public necessity, the court may employ a disinterested, competent, and expert public accountant to audit all or part of the books, records, or accounts of:

- (1) the county;
- (2) a district, county, or precinct officer, agent, or employee, including the county auditor;
- (3) a governmental unit of the county; or
- (4) a hospital, farm, or other county institution maintained at public expense.

(b) The commissioners court may also employ the accountant to deal with any other matter relating to or affecting the fiscal affairs of the county.

(c) The resolution providing for the audit must state the reasons for the audit, such as a determination by the commissioners court:

- (1) of official misconduct, intentional omission, or negligence in records or reports;
- (2) of a misapplication, conversion, or retention of public funds; or
- (3) of a failure to keep accounts, make reports, or account for public funds by any officer, agent, or employee of the district, the county, or a precinct, including the officer, agent, or employee of a depository, hospital, or other public institution maintained for the public benefit at the public expense.

(d) The reason stated in the audit resolution may also be a statement by the commissioners court that it considers the audit necessary for the court to determine and fix the proper appropriation and expenditure of public money or to determine and fix a proper tax levy.

(e) The commissioners court may present the audit resolution in writing at any regular or called session of the commissioners court, but it shall lie over to the next regular term of the court.

(f) The commissioners court shall publish the resolution once in a newspaper of general circulation published in the county. If there is no newspaper of general circulation published in the county, the court shall post notice of the resolution at the courthouse door and two other public places in the county for at least the 10 days preceding the date the resolution is adopted.

(g) To be implemented, the resolution must be adopted by a majority vote of the four county commissioners and must be approved by the county judge at that next regular term of the commissioners court.

(h) A contract entered into by the commissioners court for the audit shall be made in accordance with statutes applicable to the making of contracts by the commissioners court. Payment under the contract may be made from county funds in accordance with those statutes.

(i) In addition to the emergency powers under this section, the commissioners court may provide for an independent audit of the accounts and officials if the court, by an order properly entered at any regular term, determines that the audit would best serve the public interest. A contract for that audit is subject to the requirements of Subsection (h).

(j) The authority given to county auditors under this subtitle, as well as other provisions of statutes relating to district, county, and precinct finances and accounts, is subordinate to the powers of the commissioners court under this section. (V.A.C.S. Art. 1641.)

Sec. 115.032. SPECIAL AUDIT AFTER VOTER PETITION. (a) If a number of qualified voters residing in a county equal to at least 30 percent of the voters who voted in the county in the most recent general gubernatorial election file a petition for an audit

with a district judge who has jurisdiction in the county, there shall be a special audit of all county records.

(b) On the receipt of the petition, the district judge shall determine its validity. If the judge determines that the petition meets the requirements of Subsection (a), the judge shall immediately employ a person to prepare a special audit of all county records. The special auditor must have the qualifications prescribed by law for county auditors. The special auditor is entitled to receive as compensation for the services rendered a reasonable fee fixed by the district judge and to be paid out of the general fund or officers' salary fund of the county.

(c) After the preparation of the audit, it shall be filed with the district judge. A copy shall be filed with the state auditor. (V.A.C.S. Art. 1641c, Secs. 1, 2, 3.)

Sec. 115.033. **AUDIT BY FINANCE COMMITTEE.** (a) On the request of the grand jury, at any term of the district court the district judge may appoint a finance committee to examine the financial condition of the county. The committee must be composed of three persons who are citizens of the county, are of good moral character and intelligence, and are experienced accountants.

(b) The committee shall examine all of the books, accounts, reports, vouchers, and orders of the commissioners court relating to county finances that have not been examined and reported on by a previous committee.

(c) The committee shall count all the money in the office of the county treasurer that belongs to the county and shall make any other examination that it considers necessary and proper to determine the true condition of the county finances.

(d) If necessary, and on the application of the committee, the district court shall send for persons and evidence to help in the investigation.

(e) On the earliest practicable day after its appointment, the committee shall make a detailed written report to the district court. The report must state whether the books and records required by law are correctly kept. The report must fully set out the financial condition of the county and the state of each officer's account and must specify any irregularity, omission, or wrongdoing that the committee discovers.

(f) The committee shall sign and swear to the report and file it in the office of the district clerk. The attention of the grand jury shall be called to the report as soon as practicable after the filing.

(g) Each member of the committee is entitled to receive compensation for services performed under this section at a rate of \$3 a day. The compensation shall be paid for a period not to exceed five days and shall be paid from the county treasury on the certificate of the district judge that states the number of days the member has served. (V.A.C.S. Arts. 1638, 1639, 1640.)

[Sections 115.034–115.040 reserved for expansion]

SUBCHAPTER D. INDEPENDENT AUDIT AUTHORITY OF SPECIFIC COUNTIES

Sec. 115.041. **INDEPENDENT AUDIT IN COUNTY WITHOUT OFFICE OF COUNTY AUDITOR.** At least once every two years, the commissioners court of a county that does not have the office of county auditor shall have conducted an independent audit of the books, records, and accounts of each of the county officers, agents, and employees and of any other matter that relates to the county's fiscal affairs. (V.A.C.S. Art. 1645, Sec. 3.)

Sec. 115.042. **AUDIT IN COUNTIES WITH POPULATION LESS THAN 25,000.** (a) The commissioners court of a county with a population of less than 25,000 may arrange with one or more other counties to jointly employ and compensate one or more special auditors for the purposes set forth in Section 115.031.

(b) The commissioners court of a county affected by this section may have an audit made of the county books, either in whole or in part, at any time regardless of whether an arrangement can be made under Subsection (a). The district judge or the grand jury of the county may also order such an audit. (V.A.C.S. Art. 1646a.)

Sec. 115.043. AUDIT BY ACCOUNTANT IN COUNTIES WITH POPULATION OF 40,000 TO 100,000. (a) This section applies to a county with a population of 40,000 to 100,000.

(b) On request by the grand jury, at any term of the district court the district judge of the county shall appoint an auditor to examine the condition of the county finances. The auditor must be of good moral character and intelligence and must be an experienced accountant.

(c) The auditor shall examine all of the books, accounts, reports, vouchers, and orders of the commissioners court that relate to the county finances, or a part of those items, as ordered and directed by the district judge. The auditor shall count all the money in the office of the county treasurer that belongs to the county and shall make any other examination that the auditor considers necessary and proper to determine the true condition of the county finances or that is ordered by the district judge.

(d) If necessary, and on the application of the auditor, the district court shall summon witnesses, compel their attendance, and require them to give testimony. The district judge shall require the production of all books, records, and other evidence requested or desired by the auditor to conduct the investigation. The district judge may punish for contempt a person who violates an order of the judge or a process issued under this section.

(e) The auditor shall make a detailed written report to the district court at the earliest practicable date after appointment. The report must state:

- (1) the true condition of the county finances;
- (2) whether the books and records required to be kept by law are correctly maintained; and
- (3) the condition of each officer's account that is included within the scope and provisions of the judge's order.

(f) The auditor shall specify in the report each irregularity, omission, and wrongdoing discovered. The auditor shall sign and swear to the report and file it in the office of the district clerk. The report must be brought to the attention of the grand jury as soon as is practicable after the filing.

(g) The auditor is entitled to receive compensation for duties performed under this section at a rate not to exceed \$25 a day. The compensation shall be paid for the period that is reasonably required to perform those duties and shall be paid from the county treasury on the certificate of the district judge that states the number of days the auditor has served and the total amount due. (V.A.C.S. Art. 1641b.)

Sec. 115.044. BIENNIAL INDEPENDENT AUDIT IN COUNTIES WITH POPULATION OF 160,000 TO 170,000. (a) A county with a population of 160,000 to 170,000 shall conduct a biennial independent audit of all books, records, and accounts of each district, county, and precinct officer, agent, or employee, including those of the regular county auditor, and of all governmental units of the county hospitals, farms, and other institutions. The audit must cover all matters relating to the fiscal affairs of the county. The audit shall be conducted in each even-numbered year and must be completed before December 31 of the year.

(b) The commissioners court of the county shall employ a disinterested, competent, experienced public accountant or certified public accountant to perform the audit. The court shall enter a contract for the audit at the first regular meeting of the court in January of each even-numbered year. The consideration specified in the contract shall be paid from the general fund of the county.

(c) This section does not prevent a county from conducting an annual independent audit of the records covered by this section. If a county conducts annual independent audits and completes the audits before December 31 of each year, those audits constitute compliance with the requirements of this section.

(d) The audit required under this section is in addition to any special audit prepared under Subchapter C or to any regular or special audit report prepared by the regular county auditor. (V.A.C.S. Art. 1641e.)

Sec. 115.045. ANNUAL INDEPENDENT AUDIT IN COUNTIES WITH POPULATION OF 350,000 OR MORE. (a) A county with a population of 350,000 or more shall conduct an annual independent audit of all books, records, and accounts of each district, county, and precinct officer, agent, or employee, including the regular county auditor, and of all governmental units of the county hospitals, farms, and other institutions. The audit shall cover all matters relating to the fiscal affairs of the county.

(b) The commissioners court of the county shall employ a disinterested, competent, experienced public accountant or certified public accountant to perform the audit. The court shall contract for the audit at the regular January meeting of the court. The consideration specified in the contract shall be paid from the general fund of the county.

(c) The audit required under this section is in addition to any special audit prepared under Subchapter C or to any regular or special audit report prepared by the regular county auditor. (V.A.C.S. Art. 1641d.)

[Sections 115.046–115.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 115.901. EXAMINATION OF CERTAIN RECORDS BY COUNTY TREASURER. (a) The county treasurer shall examine the accounts, dockets, and records of each clerk, justice of the peace, and constable and of the sheriff and county tax assessor-collector to determine if any money belonging to the county and in the possession of the officer has not been accounted for and paid over according to law.

(b) If the treasurer finds that such money does exist, the treasurer shall report the findings of the examination to the commissioners court of the county at its next term for the purpose of instituting a suit for the recovery of the money. (V.A.C.S. Art. 1714.)

CHAPTER 116. DEPOSITORIES FOR COUNTY PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 116.001. DEFINITIONS

Sec. 116.002. MONEY AFFECTED

[Sections 116.003–116.020 reserved for expansion]

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

- Sec. 116.021. DEPOSITORY CONTRACTS
- Sec. 116.022. NOTICE
- Sec. 116.023. APPLICATIONS
- Sec. 116.024. SELECTION OF DEPOSITORIES
- Sec. 116.025. DESIGNATION OF DEPOSITORY
- Sec. 116.026. APPLICANTS OUTSIDE COUNTY
- Sec. 116.027. SELECTION OF NONAPPLICANT DEPOSITORY

[Sections 116.028–116.050 reserved for expansion]

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

- Sec. 116.051. QUALIFICATION AS DEPOSITORY
- Sec. 116.052. PERSONAL BOND
- Sec. 116.053. SURETY BOND
- Sec. 116.054. BONDS, NOTES, AND OTHER SECURITIES
- Sec. 116.055. FIRST MORTGAGES ON IMPROVED REAL PROPERTY
- Sec. 116.056. REAL PROPERTY
- Sec. 116.057. CONDITION OF PERSONAL BOND OR CONTRACT FOR SECURITIES
- Sec. 116.058. AMOUNT OF SECURITY REQUIRED
- Sec. 116.059. VALUATION OF REAL PROPERTY PROVIDED AS SECURITY
- Sec. 116.060. SECURITY NOT REQUIRED FOR FEDERALLY INSURED DEPOSITS

[Sections 116.061–116.080 reserved for expansion]

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

- Sec. 116.081. NEW BOND
- Sec. 116.082. SUBSTITUTION OF SECURITIES
- Sec. 116.083. RELEASE OF EXCESS SECURITY
- Sec. 116.084. INADEQUATE SECURITY
- Sec. 116.085. SOLVENCY OF PERSONAL SURETY
- Sec. 116.086. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES
- Sec. 116.087. ADDITIONAL BOND
- Sec. 116.088. RELEASE OF SURETY COMPANY
- Sec. 116.089. SURRENDER OF INTEREST ON SECURITIES

[Sections 116.090–116.110 reserved for expansion]

SUBCHAPTER E. DEPOSITORY ACCOUNTS

- Sec. 116.111. CHARACTER AND AMOUNT OF DEPOSITS
- Sec. 116.112. INVESTMENT OF FUNDS
- Sec. 116.113. DEPOSIT OF FUNDS
- Sec. 116.114. COLLECTIONS BY DEPOSITORY
- Sec. 116.115. CLEARINGHOUSE FOR MULTIPLE DEPOSITORIES
- Sec. 116.116. OBLIGATIONS PAYABLE AT COUNTY SEAT
- Sec. 116.117. STATEMENTS OF ACCOUNT
- Sec. 116.118. DEBTS PAYABLE OTHER THAN AT COUNTY TREASURY
- Sec. 116.119. REQUIREMENTS FOR AUDITING AND COUNTERSIGNING UNAFFECTED

[Sections 116.120–116.150 reserved for expansion]

SUBCHAPTER F. LIABILITIES

- Sec. 116.151. LIABILITIES OF SURETIES ON SEPARATE BONDS

- Sec. 116.152. SUBROGATION OF SURETIES
 Sec. 116.153. PRO RATA RECOVERY BY STATE AND COUNTY
 Sec. 116.154. LIABILITY OF DEPOSITORY PENDING COLLECTION OF DEPOSITS
 Sec. 116.155. FAILURE OF DEPOSITORY TO PAY CHECK OR WARRANT

CHAPTER 116. DEPOSITORIES FOR COUNTY PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 116.001. DEFINITIONS. In this chapter:

- (1) "Bank" means a banking corporation or association or an individual banker.
- (2) "Demand deposit" means a deposit of funds that may be withdrawn on the demand of the depositor.
- (3) "Time deposit" means a deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds. (V.A.C.S. Art. 2546 (part); New.)

Sec. 116.002. MONEY AFFECTED. (a) This chapter applies to money collected or held by a district, county, or precinct officer in a county and by the officers of a defined district or subdivision in the county, including the funds of a municipal or quasi-municipal subdivision or corporation that has the power to select its own depository but has not done so. The money shall be deposited under this chapter, and the money shall be considered in fixing, and is protected by, a county depository's bond.

(b) Warrants, checks, and vouchers evidencing the money deposited in the county depository under Subsection (a) are subject to audit and countersignature as provided by law. (V.A.C.S. Art. 2549, Sec. (a) (part).)

[Sections 116.003–116.020 reserved for expansion]

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 116.021. DEPOSITORY CONTRACTS. (a) The commissioners court of a county at its February regular term immediately following each general election for state and county officers shall contract with one or more banks in the county for the deposit of the county's public funds.

(b) The commissioners court at its February regular term not following a general election for state and county officers may contract with one or more banks in the county for the deposit of the county's public funds.

(c) If for any reason a county depository is not selected under Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select one or more depositories in the same manner as at the regular time. (V.A.C.S. Arts. 2544 (part), 2555.)

Sec. 116.022. NOTICE. (a) Once each week for at least 20 days before the February regular term of a commissioners court at which the court will make a depository contract, the county judge shall place over the judge's name in a newspaper published in the county a notice that the commissioners court intends to make the contract. A notice shall also be posted at the courthouse door of the county.

(b) If a newspaper is not published in the county, the newspaper notice shall be placed in a newspaper published in the nearest county. (V.A.C.S. Art. 2544 (part).)

Sec. 116.023. APPLICATIONS. (a) A bank in the county that wants to be a county depository must deliver its application to the county judge on or before the first day of the term of the commissioners court at which depositories are to be selected.

(b) The application must state the amount of the bank's paid-up capital stock and permanent surplus, and the application must be accompanied by:

- (1) a statement showing the financial condition of the bank on the date of the application; and

(2) a certified check for at least one-half percent of the county's revenue for the preceding year.

(c) The certified check that accompanies an application is a good-faith guarantee on the part of the applicant that if accepted as a county depository it will execute the bond required under this chapter. If a bank is selected as a depository and does not provide the bond, the county shall retain the amount of the check as liquidated damages, and the county judge shall readvertise for applications, if necessary, to obtain a depository for the county. (V.A.C.S. Art. 2545.)

Sec. 116.024. SELECTION OF DEPOSITORIES. (a) At 10 a.m. on the first day of each term at which banks are to be selected as county depositories, the commissioners court shall:

- (1) enter in the minutes of the court all applications filed with the county judge;
- (2) consider all applications; and
- (3) select the qualified applicants that offer the most favorable terms and conditions for the handling of the county funds.

(b) The commissioners court may reject those applicants whose management or condition, in the opinion of the commissioners court, does not warrant placing county funds in their possession.

(c) After selecting one or more county depositories, the commissioners court shall immediately return the certified checks of the rejected applicants. The commissioners court shall return the check of a successful applicant when the applicant executes and files a depository bond that is approved by the commissioners court.

(d) The conflict of interests provisions of Chapter 179, Acts of the 60th Legislature, Regular Session, 1967 (Article 2529c, Vernon's Texas Civil Statutes), apply to the selection of the depositories. (V.A.C.S. Art. 2546 (part); New.)

Sec. 116.025. DESIGNATION OF DEPOSITORY. When security is provided in accordance with Subchapter C and is approved by the commissioners court, the commissioners court shall, by an order entered in its minutes, designate the bank as a depository for the funds of the county. The designation is effective until the end of the 60th day after the date fixed for the next selection of a depository. (V.A.C.S. Art. 2549, Sec. (a) (part).)

Sec. 116.026. APPLICANTS OUTSIDE COUNTY. If no bank located in the county applies to be designated as the county depository, the commissioners court may advertise, in the same manner provided by Section 116.022 for advertising for a depository within the county, for applications from banks in an adjoining county or any other county in this state. (V.A.C.S. Art. 2558 (part).)

Sec. 116.027. SELECTION OF NONAPPLICANT DEPOSITORY. (a) If no application to be a county depository is submitted, or if all of the applications are declined, the commissioners court shall deposit the funds of the county with any one or more banks in the county or in the adjoining counties in the amounts and for the periods as the commissioners court considers advisable.

(b) A bank that receives deposits under this section shall provide security in the manner and form, and subject to the same conditions, as is required for a depository of county funds. The penalty of the security must at least equal the total amount of county funds deposited with the bank. (V.A.C.S. Art. 2550.)

[Sections 116.028–116.050 reserved for expansion]

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

Sec. 116.051. QUALIFICATION AS DEPOSITORY. Within 15 days after the date a bank is selected as a county depository, the bank must qualify as the depository by providing security for the funds to be deposited by the county with the bank. The depository may secure these funds, at the option of the commissioners court, by:

(1) personal bond; surety bond; bonds, notes, and other securities; first mortgages on real property; real property; or a combination of these methods, as provided by this subchapter; or

(2) investment securities or interests in them as provided by Chapter 726, Acts of the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes). (V.A.C.S. Arts. 2547 (part), 2549, Sec. (a) (part); New.)

Sec. 116.052. PERSONAL BOND. (a) One or more personal bonds executed and filed with the commissioners court, payable to the county judge and the judge's successors in office, qualify as security under this subchapter if:

(1) the bonds are signed by at least five solvent sureties who own unencumbered real property in the state that is not exempt from execution under the constitution and other laws of this state;

(2) the unencumbered and nonexempt real property owned by the sureties has a value at least equal to the amount of the bonds; and

(3) the bonds are approved by the commissioners court.

(b) When a bond is filed for approval with the commissioners court under Subsection (a), the sureties shall also file a statement containing:

(1) a description of the unencumbered and nonexempt real property sufficient to identify it on the ground; and

(2) the value of each tract of real property listed, including the value of the improvements on the property.

(c) After the commissioners court approves a personal bond, it shall be filed in the county clerk's office with the statement of the sureties attached to the bond. (V.A.C.S. Art. 2547 (part).)

Sec. 116.053. SURETY BOND. (a) One or more bonds issued and executed by one or more solvent surety companies authorized to do business in this state, payable to the county judge and the judge's successors in office and filed with the commissioners court, qualifies as security under this subchapter if the bond is approved by the commissioners court.

(b) After the commissioners court approves a surety bond, it shall be filed in the county clerk's office. (V.A.C.S. Art. 2547 (part).)

Sec. 116.054. BONDS, NOTES, AND OTHER SECURITIES. (a) A county depository may pledge with the commissioners court as security under this subchapter:

(1) a bond, note, security of indebtedness, or other evidence of indebtedness of the United States if the evidence of indebtedness is supported by the full faith and credit of the United States or is guaranteed as to principal and interest by the United States;

(2) a bond of this state or of a county, municipality, independent school district, or common school district;

(3) a bond issued under the federal farm loan acts;

(4) a road district bond;

(5) a bond, pledge, or other security issued by the board of regents of The University of Texas System;

(6) bank acceptances of banks having a capital stock of at least \$500,000;

(7) a note or bond secured by mortgages insured and debentures issued by the Federal Housing Administration;

(8) shares or share accounts of a savings and loan association organized under the laws of this state or of a federal savings and loan association domiciled in this state if the payment of the share or share accounts is insured by the Federal Savings and Loan Insurance Corporation; or

(9) a bond issued by a municipal corporation in this state.

(b) Securities provided under this section must have a total market value equal to the amount of the depository bond. (V.A.C.S. Art. 2547 (part).)

Sec. 116.055. **FIRST MORTGAGES ON IMPROVED REAL PROPERTY.** (a) If approved by the commissioners court, closed first mortgages on improved and unencumbered real property located in this state that are assigned to the county judge in a duly acknowledged instrument qualify as security under this subchapter.

(b) Before approving a mortgage as security, the commissioners court shall require:

(1) a written opinion by an attorney selected by the commissioners court showing that the lien is superior to any other claim to or right in the real property; and

(2) insurance approved by the county judge covering the improvements on each tract of pledged real property and providing that a loss is payable to the county judge.

(c) An insurance policy required under Subsection (b) must be issued by a stock fire insurance company or mutual fire insurance company that has a \$100,000 surplus in excess of all legal reserves and other liabilities.

(d) A mortgage accepted as security under this section shall immediately be recorded in each county in which part of the real property is located. (V.A.C.S. Art. 2547 (part).)

Sec. 116.056. **REAL PROPERTY.** (a) If approved by the commissioners court, improved and unencumbered real property, pledged directly by deed of trust to a trustee selected by the commissioners court, with the county judge as beneficiary, qualifies as security under this subchapter.

(b) Before approving real property offered as security, the commissioners court shall require:

(1) a written opinion by an attorney selected by the commissioners court showing that the lien is superior to any other claim to or right in the real property; and

(2) insurance approved by the county judge covering the improvements on the pledged real property and providing that a loss is payable to the county judge.

(c) An insurance policy required under Subsection (b) must be issued by a stock fire insurance company or mutual fire insurance company that has a \$100,000 surplus in excess of all legal reserves and other liabilities. (V.A.C.S. Art. 2547 (part).)

Sec. 116.057. **CONDITION OF PERSONAL BOND OR CONTRACT FOR SECURITIES.** (a) A personal bond provided or a contract for the pledge of securities under this subchapter must be conditioned that the depository will:

(1) faithfully keep the county funds and faithfully perform all duties and obligations imposed by law on the depository;

(2) pay all checks drawn on a demand deposit account in a depository on presentation by the county treasurer;

(3) pay all checks drawn on a time deposit account on presentation after the expiration of the required period of notice; and

(4) account for the county funds as required by law.

(b) A suit on a personal bond or a contract for securities provided or pledged under this subchapter must be tried in the county for which the depository is selected. (V.A.C.S. Art. 2547 (part).)

Sec. 116.058. **AMOUNT OF SECURITY REQUIRED.** (a) Personal or surety bonds that secure county deposits must be in an amount equal to the estimated highest daily balance of the county, as determined by the commissioners court. However, the commissioners court may not estimate the highest daily balance at an amount that is less than 75 percent of the highest daily balance of the county for the preceding year, less the amount of bond funds received and expended.

(b) Securities pledged to secure county funds on deposit in a depository must be in an amount equal to the amount of those funds. However, real property securities may not be required in an amount greater than 25 percent of the assessed value of the property in the county, as shown by the certified tax roll for the preceding year. (V.A.C.S. Art. 2547 (part).)

Sec. 116.059. **VALUATION OF REAL PROPERTY PROVIDED AS SECURITY.** The commissioners court shall investigate all real property security and determine the value at which the property will be accepted. The commissioners court may not accept real

property as security at a value greater than 50 percent of the reasonable market value of the property covered by a mortgage unless the mortgage is insured or guaranteed by the Federal Housing Administration. (V.A.C.S. Art. 2547 (part).)

Sec. 116.060. SECURITY NOT REQUIRED FOR FEDERALLY INSURED DEPOSITS. A depository is not required to provide security for the deposit of county funds to the extent the deposits are insured under 12 U.S.C.A. Sections 1811-1832. (V.A.C.S. Art. 2566a.)

[Sections 116.061-116.080 reserved for expansion]

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

Sec. 116.081. NEW BOND. (a) The commissioners court may by written order require a depository to execute a new bond whenever the commissioners court considers it advisable or considers it necessary for the protection of the county.

(b) Except for an additional bond required under Section 116.087, if a depository fails for any reason to file the required new bond within five days after the date the depository is served with a copy of the order, the commissioners court may select a new depository in the same manner as it would select a depository at the regular time. (V.A.C.S. Arts. 2547 (part), 2556.)

Sec. 116.082. SUBSTITUTION OF SECURITIES. (a) After reasonable notice to the commissioners court, a depository is entitled to substitute one type of security for another or replace particular securities with others of the same type if the substituting or replacing security meets the requirements of law and is approved by the commissioners court.

(b) The county judge shall execute the necessary instruments to transfer to the depository or its order a lien withdrawn from real property for which another security is substituted.

(c) The commissioners court may direct the manner in which securities pledged in place of personal or surety bonds are to be deposited. (V.A.C.S. Art. 2547 (part).)

Sec. 116.083. RELEASE OF EXCESS SECURITY. If the securities pledged by a depository to secure county funds exceed the amount required under this chapter, the commissioners court shall permit the release of the excess. (V.A.C.S. Art. 2547 (part).)

Sec. 116.084. INADEQUATE SECURITY. If for any reason the county funds on deposit with the county depository exceed the amount of security pledged, the depository shall immediately pledge additional security with the commissioners court. (V.A.C.S. Art. 2547 (part).)

Sec. 116.085. SOLVENCY OF PERSONAL SURETY. (a) At least twice each year while a personal bond securing the county's deposits is in effect, the commissioners court shall investigate the solvency of each surety on the bond. The commissioners court may require the surety to make an itemized and verified financial statement correctly showing the surety's financial position and, if the bond requires the surety to own real property, identifying each tract of real property owned by the surety and stating its value.

(b) The commissioners court shall require a depository to provide a new bond meeting the requirements of this chapter if a financial statement provided under Subsection (a) indicates that:

- (1) a surety is insolvent;
- (2) a surety's net worth is less than the amount required by this chapter;
- (3) the assets listed on the statement are depreciated or their value is in any way impaired; or

(4) real property required by the bond has been disposed of or encumbered and the value of the surety's remaining unencumbered and nonexempt real property is inadequate to meet the requirements of this chapter. (V.A.C.S. Art. 2547 (part).)

Sec. 116.086. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES. Whenever the commissioners court considers it necessary for the protection of the county, the commissioners court may investigate the solvency of a surety company that

issues a bond on behalf of a depository of county funds or investigate the value of securities pledged by a depository to secure county funds. (V.A.C.S. Art. 2547 (part).)

Sec. 116.087. **ADDITIONAL BOND.** (a) If after a county establishes a depository the county or a subdivision of the county receives funds from the sale of bonds or otherwise, at the next meeting of the commissioners court, or as soon afterward as is practical, the commissioners court may make written demand on the depository to provide an additional bond in an amount equal to the amount of funds received. If county funds derived from the sale of county securities during the term of a depository bond are deposited with the depository, the commissioners court shall require an additional bond in an amount equal to the additional county funds. The depository shall continue the additional bond in effect as long as the additional funds remain in the depository.

(b) The depository may cancel this extra or special bond and concurrently substitute a new bond for it as the additional funds are reduced. However, the additional bond must always at least equal the amount of the additional funds.

(c) If a depository does not provide an additional bond under Subsection (a) within 30 days after the date the commissioners court demands the additional bond, the commissioners court may withdraw the additional funds from the depository by the draft of the county treasurer and deposit them in a solvent national or state bank that has a combined capital stock and surplus greater than the amount of the additional funds. The commissioners court may leave the additional funds on deposit with this alternative bank until the county depository files the required additional bond with the commissioners court, after which the commissioners court shall redeposit the balance of the additional funds with the county depository. (V.A.C.S. Arts. 2547 (part), 2548 (part).)

Sec. 116.088. **RELEASE OF SURETY COMPANY.** (a) A surety company may be relieved of its obligations under a surety bond executed on behalf of a county depository after the 30th day after the date it gives written notice to the commissioners court requesting to be released.

(b) A surety company is not relieved under Subsection (a) of liability for a loss sustained by the county before the expiration of the bond.

(c) If a depository's surety company requests to be relieved from its obligations under Subsection (a), the depository shall provide further security acceptable to the commissioners court to secure county funds under this chapter. The depository shall provide the further security before termination of the surety's obligations under the bond. The new security shall be filed in the county clerk's office. (V.A.C.S. Art. 2547 (part).)

Sec. 116.089. **SURRENDER OF INTEREST ON SECURITIES.** On the request of a county depository, the commissioners court shall surrender, when due, interest coupons or other evidence of interest on securities deposited by the depository with the commissioners court if the securities remaining pledged by a depository are adequate to meet the requirements of the commissioners court. (V.A.C.S. Art. 2547 (part).)

[Sections 116.090–116.110 reserved for expansion]

SUBCHAPTER E. DEPOSITORY ACCOUNTS

Sec. 116.111. **CHARACTER AND AMOUNT OF DEPOSITS.** The commissioners court may determine and designate the character and amount of county funds that will be demand deposits and that will be time deposits. The commissioners court may contract with a depository for interest on time deposits at any legal rate under a federal law or under a rule adopted by the board of governors of the Federal Reserve System or by the board of directors of the Federal Deposit Insurance Corporation. (V.A.C.S. Art. 2546 (part).)

Sec. 116.112. **INVESTMENT OF FUNDS.** (a) The commissioners court may direct the county treasurer to withdraw any county funds deposited in a county depository that are not immediately required to pay obligations of the county and invest those funds as provided by this section unless such an investment or withdrawal is prohibited by law or the withdrawal is contrary to the terms of the depository contract.

(b) The funds may be invested in:

(1) direct debt securities of the United States; or

(2) fully collateralized security repurchase agreements purchased under a master contractual agreement that specifies the rights and obligations of both parties and that requires that securities involved in the transaction be held in a safekeeping account subject to the control and custody of the county.

(c) Investments in security repurchase agreements may be made only with the county depository or with state or national banks domiciled in this state.

(d) In this section, "security repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and then sell back at a future date any of the following securities, obligations, or participation certificates:

(1) United States government securities;

(2) direct obligations of the United States;

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

(4) direct obligations of, or participation certificates guaranteed by, the Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, or Banks for Cooperatives. (V.A.C.S. Art. 2549, Secs. (c), (d), (e).)

Sec. 116.113. DEPOSIT OF FUNDS. (a) Immediately after the commissioners court designates a county depository, the county treasurer shall transfer to the depository all of the county's funds and the funds of any district or municipal subdivision of the county that does not select its own depository. The treasurer shall also immediately deposit with the depository to the credit of the county, district, or municipality any money received after the depository is designated.

(b) A county tax assessor-collector shall immediately deposit in the county depository taxes collected on behalf of the state, the county, or a district or municipal subdivision of the county. The taxes remain on deposit pending the preparation and settlement of the assessor-collector's report on the tax collections.

(c) If a commissioners court that controls school district funds elects to transfer the funds during a school year from a county depository to another bank, the school district may require the commissioners court to delay the transfer until the earlier of the end of the school district's current fiscal year or the next September 1. (V.A.C.S. Art. 2549, Secs. (a) (part), (b).)

Sec. 116.114. COLLECTIONS BY DEPOSITORY. A county depository shall collect all checks, drafts, and demands for money deposited with it by the county. (V.A.C.S. Art. 2549, Sec. (a) (part).)

Sec. 116.115. CLEARINGHOUSE FOR MULTIPLE DEPOSITORIES. If the funds of a county are deposited with more than one depository, the commissioners court shall by order name one of the depositories to act as a clearinghouse for the others. All county warrants are finally payable at the depository named as the clearinghouse. (V.A.C.S. Art. 2551.)

Sec. 116.116. OBLIGATIONS PAYABLE AT COUNTY SEAT. (a) A county depository shall pay a check or warrant drawn by the county treasurer against funds deposited with the depository on presentation of the check or warrant at the county seat of the county if the funds subject to the check or warrant are in the possession of the depository, and, in the case of a time deposit, if the agreed period of notice has expired.

(b) If a county depository is not located at the county seat, the commissioners court may require the depository to file a statement with the county treasurer designating a place at the county seat where, and a person by whom, deposits by the treasurer may be received and checks will be paid. The person designated as the depository's agent at the county seat must be approved by the commissioners court. The depository shall pay a check on presentation at the designated place if the depository has sufficient funds to the credit of the county in the applicable account and, in the case of a time deposit, if the agreed period of notice has expired.

(c) If the commissioners' court selects a depository in another county under Section 116.026, the depository shall file a statement with the county treasurer designating the place at the county seat where, and the person by whom, deposits by the treasurer may be received and checks will be paid. The statement must be filed within five days after the date notice is given to the depository of its selection. (V.A.C.S. Arts. 2552 (part), 2553, 2558 (part).)

Sec. 116.117. STATEMENTS OF ACCOUNT. A depository shall make a detailed monthly statement to the commissioners court at each regular term of the court. The statement must show the daily balance credited to each of the funds on deposit. (V.A.C.S. Art. 2554 (part).)

Sec. 116.118. DEBTS PAYABLE OTHER THAN AT COUNTY TREASURY. The commissioners court may instruct the county treasurer to deposit money adequate to pay a bond, coupon, or other indebtedness of the county at a place other than at the county treasury if by its terms the indebtedness is payable on maturity at the other location and if the payment is otherwise made in the manner required by law. (V.A.C.S. Art. 2554 (part).)

Sec. 116.119. REQUIREMENTS FOR AUDITING AND COUNTERSIGNING UNAFFECTED. This chapter does not affect the application of a law or regulation providing for auditing and countersigning. (V.A.C.S. Art. 2554 (part).)

[Sections 116.120–116.150 reserved for expansion]

SUBCHAPTER F. LIABILITIES

Sec. 116.151. LIABILITIES OF SURETIES ON SEPARATE BONDS. If a county depository provides separate bonds to secure county funds, each surety under a bond is liable only for that part of a loss resulting from the failure of the depository that bears to the total loss the same ratio as the amount of the bond bears to the total amount of all bonds and securities held by the county for the protection of the funds covered by the bond. (V.A.C.S. Art. 2547 (part).)

Sec. 116.152. SUBROGATION OF SURETIES. If a personal surety or a surety company pays for a loss to a county under a depository bond, the surety is subrogated to the rights of the county in an amount equal to the amount of the surety's payment. However, the amount of the subrogation may not exceed the amount of the deposit secured by the surety at the time of the depository's default. (V.A.C.S. Art. 2547 (part).)

Sec. 116.153. PRO RATA RECOVERY BY STATE AND COUNTY. If a county depository becomes insolvent and it becomes necessary to resort to the depository's bond or bonds to recover funds of the county and the state, the state and county are entitled to share pro rata in the recovery. (V.A.C.S. Art. 2548 (part).)

Sec. 116.154. LIABILITY OF DEPOSITORY PENDING COLLECTION OF DEPOSITS. A county depository that uses due diligence to collect a check, draft, or demand for money deposited by the county with the depository is not liable for the collection until the proceeds have been received by the depository. The depository shall charge the county and the county shall pay a collection expense that the depository may not pay or absorb because of a federal law or a regulation adopted by the board of governors of the Federal Reserve System or by the board of directors of the Federal Deposit Insurance Corporation. (V.A.C.S. Art. 2549, Sec. (a) (part).)

Sec. 116.155. FAILURE OF DEPOSITORY TO PAY CHECK OR WARRANT. A depository that does not pay a check or warrant as required by Section 116.116(a) is liable for and shall pay to the holder 10 percent of the amount of the check or warrant, and the commissioners court shall revoke the order creating the depository. (V.A.C.S. Art. 2552 (part).)

CHAPTER 117. DEPOSITORIES FOR TRUST FUNDS HELD BY COUNTY AND DISTRICT CLERKS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 117.001. DEFINITION

[Sections 117.002–117.020 reserved for expansion]

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

- Sec. 117.021. APPLICATIONS
- Sec. 117.022. NOTICE NOT REQUIRED
- Sec. 117.023. SELECTION OF DEPOSITORY
- Sec. 117.024. QUALIFICATION AS DEPOSITORY
- Sec. 117.025. DESIGNATION OF DEPOSITORY
- Sec. 117.026. ADVERTISEMENT FOR AND SELECTION OF DEPOSITORY OUTSIDE THE COUNTY
- Sec. 117.027. FAILURE TO SELECT DEPOSITORY

[Sections 117.028–117.050 reserved for expansion]

SUBCHAPTER C. DEPOSITORY ACCOUNTS

- Sec. 117.051. TIME DEPOSITS BY COMMISSIONERS COURT
- Sec. 117.052. DEPOSITS OF TRUST FUNDS BY COUNTY AND DISTRICT CLERKS
- Sec. 117.053. WITHDRAWAL OF FUNDS
- Sec. 117.054. COUNTY EXPENSES PAID FROM INTEREST ON TIME DEPOSITS
- Sec. 117.055. COUNTY EXPENSES PAID FROM FEES
- Sec. 117.056. OBLIGATIONS PAYABLE AT COUNTY SEAT
- Sec. 117.057. NEW BOND
- Sec. 117.058. ACCOUNTING FOR AND DISBURSING TRUST FUNDS IN COUNTIES WITH POPULATION OF 190,000 OR MORE

[Sections 117.059–117.080 reserved for expansion]

SUBCHAPTER D. LIABILITIES AND PENALTIES

- Sec. 117.081. LIABILITY OF COUNTY AND DISTRICT CLERKS
- Sec. 117.082. OFFENSES RELATED TO CLERK'S PERFORMANCE OF OFFICE
- Sec. 117.083. LOSS OF TRUST FUNDS
- Sec. 117.084. FAILURE OF DEPOSITORY TO PAY CHECK ON PRESENTMENT

CHAPTER 117. DEPOSITORIES FOR TRUST FUNDS HELD BY COUNTY AND DISTRICT CLERKS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 117.001. DEFINITION. In this chapter, "bank" means a banking corporation or association or an individual banker. (New.)

[Sections 117.002–117.020 reserved for expansion]

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 117.021. APPLICATIONS. (a) The commissioners court of a county at its February regular term after a general election for state and county officers shall receive an application from any bank in the county to be the depository for trust funds held by the county and district clerks.

(b) A bank must file its application on or before 10 a.m. on the first day of the term. The application must be accompanied by a certified check for at least one-half percent of the average daily balance of the trust funds held by the county and district clerks during the preceding calendar year, as determined by the county clerk on or before the 10th day before the date the application is required to be filed.

(c) A certified check that complies with this section is a good-faith guarantee on the part of the applicant that if its application is accepted it will execute the bond required under this chapter. If the bank selected as depository does not provide the bond, the county shall retain the amount of the check as liquidated damages and the county shall select another depository as provided by this chapter. (V.A.C.S. Art. 2558a, Sec. 1 (part).)

Sec. 117.022. NOTICE NOT REQUIRED. A county is not required to advertise or give notice that the county will accept applications to be the depository for trust funds held by the county and district clerks. (V.A.C.S. Art. 2558a, Sec. 1 (part).)

Sec. 117.023. SELECTION OF DEPOSITORY. (a) At 10 a.m. on the first day of each term at which the commissioners court is required to receive applications to serve as the depository for trust funds held by the county and district clerks, the commissioners court shall enter the applications in the minutes of the court and select a depository.

(b) After a depository is selected, the commissioners court shall return the certified checks of the applicants that were not selected. The commissioners court shall return the check of the selected applicant only after the applicant files a bond that is approved by the commissioners court.

(c) The conflict of interests provisions of Chapter 179, Acts of the 60th Legislature, Regular Session, 1967 (Article 2529c, Vernon's Texas Civil Statutes), apply to the selection of the depository. (V.A.C.S. Art. 2558a, Secs. 1 (part), 2.)

Sec. 117.024. QUALIFICATION AS DEPOSITORY. Within 30 days after the date a bank is selected as a depository under this chapter, the bank must qualify to serve as the depository in the same manner as is required for the qualification of county depositories under Chapter 116. (V.A.C.S. Art. 2558a, Sec. 3.)

Sec. 117.025. DESIGNATION OF DEPOSITORY. (a) After a bank selected to be a depository under this chapter qualifies under Section 117.024 and is selected by the commissioners court, the commissioners court shall by an order entered in its minutes designate the bank as the depository for the trust funds.

(b) A designation under Subsection (a) is effective until the designation and qualification of a successor depository or until April 15 following the term in which a depository must be selected under this chapter, whichever is earlier. If the term of a depository ends before the designation and qualification of a successor, the depository shall pay to the clerk in whose name the account is carried all trust funds due or on deposit. (V.A.C.S. Art. 2558a, Sec. 4 (part).)

Sec. 117.026. ADVERTISEMENT FOR AND SELECTION OF DEPOSITORY OUTSIDE THE COUNTY. (a) The commissioners court may select a bank located outside the county to serve as the depository under this chapter if:

- (1) for any reason no bank located in the county applies to be designated as the depository;
- (2) an application is not made for the entire amount of the trust funds;
- (3) the commissioners court rejects all the applications submitted;
- (4) a depository selected by the commissioners court fails to qualify;
- (5) a depository becomes insolvent; or
- (6) a new depository is selected because of the failure of the regular depository to execute a new bond under Section 117.057.

(b) Before selecting a depository under Subsection (a), the commissioners court shall advertise for applications from banks located in this state by publishing a notice of the selection once a week for two consecutive weeks in a newspaper of general circulation published in the county. If such a newspaper is not published in the county, the commissioners court shall post the notice at the courthouse for two weeks. The commissioners court may also publish the notice in any newspaper outside the county for the same length of time. (V.A.C.S. Art. 2558a, Sec. 5.)

Sec. 117.027. FAILURE TO SELECT DEPOSITORY. If the commissioners court has not selected a depository under this chapter, a clerk holding money, an evidence of debt, an instrument of writing, or any other article deposited in the clerk's court pending the result of a legal proceeding shall seal the article in a secure package and deposit the package in an iron safe or a bank vault. (V.A.C.S. Art. 2558a, Sec. 14.)

[Sections 117.028–117.050 reserved for expansion]

SUBCHAPTER C. DEPOSITORY ACCOUNTS

Sec. 117.051. **TIME DEPOSITS BY COMMISSIONERS COURT.** The commissioners court may authorize or require the county auditor, or the county treasurer if there is no county auditor, to place in time deposits with the depository selected under this chapter the amount of the trust funds that the auditor or the treasurer estimates is not immediately required to be paid under the orders of the judge of the court in which the funds were deposited. (V.A.C.S. Art. 2558a, Sec. 4a (part).)

Sec. 117.052. **DEPOSITS OF TRUST FUNDS BY COUNTY AND DISTRICT CLERKS.** (a) If a depository has been selected under this chapter, a county or district clerk who is to have for more than three days legal custody of money deposited in court pending the result of a legal proceeding shall deposit the money in the depository.

(b) The funds deposited shall be carried as a trust fund account in the name of the clerk making the deposit. (V.A.C.S. Art. 2558a, Secs. 4 (part), 11 (part).)

Sec. 117.053. **WITHDRAWAL OF FUNDS.** (a) If a commissioners court selects a new depository under this chapter, when the depository qualifies, the county and district clerks shall transfer the trust funds from the old depository to the new depository, and the clerks may draw checks on the accounts for this purpose.

(b) Except as provided by Subsection (a), a clerk may not draw a check on trust funds held by a depository except to pay a person entitled to the funds. The payment must be made under an order of the court in which the funds were deposited. The clerk shall place on the check the style and number of the proceeding in which the money was deposited with the clerk.

(c) A depository shall release funds placed in time deposits under Section 117.051 if the funds are required before maturity, but the depository is not liable for interest earned on the amount withdrawn. (V.A.C.S. Art. 2558a, Secs. 4a (part), 11 (part), 12, 13.)

Sec. 117.054. **COUNTY EXPENSES PAID FROM INTEREST ON TIME DEPOSITS.** (a) A county is entitled to receive a part of the interest earned on trust funds placed in time deposits under Section 117.051. The amount received by the county must be reasonably related to the accounting and administrative expenses incurred by the county in handling the funds.

(b) The county auditor on behalf of the commissioners court or, if there is no county auditor, the county treasurer shall deposit the amount of compensation in the general fund of the county. (V.A.C.S. Art. 2558a, Secs. 4a (part), 4b; New.)

Sec. 117.055. **COUNTY EXPENSES PAID FROM FEES.** (a) To compensate the county for the accounting and administrative expenses incurred in handling the trust funds for the benefit of litigants in civil proceedings, the county may collect a \$50 fee from the nonprevailing party in the litigation or from the party the court designates.

(b) The county treasurer shall deposit the fee in the general fund of the county. (V.A.C.S. Art. 2558a, Sec. 4c.)

Sec. 117.056. **OBLIGATIONS PAYABLE AT COUNTY SEAT.** (a) A depository selected under this chapter shall pay a check drawn by a county or district clerk against funds deposited in the clerk's name on presentment of the check at the county seat if the funds subject to the check are in the possession of the depository.

(b) If the depository is not located at the county seat, the depository shall file a statement with the county clerk of the county designating a place at the county seat where, and a person by whom, deposits by the clerks will be received and checks drawn on the depository will be paid. The depository shall pay a check on presentment at the designated place if the depository has sufficient funds credited to the applicable account. (V.A.C.S. Art. 2558a, Secs. 6 (part), 7.)

Sec. 117.057. **NEW BOND.** (a) A commissioners court may require a depository selected under this chapter to execute a new bond whenever the commissioners court considers it necessary for the protection of the county and district clerks' trust funds.

(b) If a depository does not file a new bond required by an order of the commissioners court within 15 days after the date a copy of the order is served on the depository, the commissioners court may select another depository in the manner provided by this chapter. (V.A.C.S. Art. 2558a, Sec. 8.)

Sec. 117.058. ACCOUNTING FOR AND DISBURSING TRUST FUNDS IN COUNTIES WITH POPULATION OF 190,000 OR MORE. (a) This section applies to a county with a population of 190,000 or more.

(b) If the commissioners court of a county provides a depository for the trust funds of the county or district clerk, those officers shall make reports under oath to the county auditor to properly reflect all trust funds received and disbursed by the officer, including all money remaining on hand at the time of the report. The county auditor shall prescribe the form and frequency of the report.

(c) Each check issued for the disbursement of the funds must be issued in accordance with the laws providing for trust fund depositories. Each check must be submitted to the county auditor for countersignature before delivery or payment.

(d) The county auditor shall countersign the checks only on written evidence of the order of the judge of the court in which the funds have been deposited that authorizes the disbursement of the funds. (V.A.C.S. Art. 1656b.)

[Sections 117.059–117.080 reserved for expansion]

SUBCHAPTER D. LIABILITIES AND PENALTIES

Sec. 117.081. LIABILITY OF COUNTY AND DISTRICT CLERKS. (a) A county or district clerk is not responsible for a loss of trust funds resulting from the failure or negligence of a depository.

(b) This chapter does not release a county or district clerk from:

(1) liability for a loss of trust funds resulting from the clerk's official misconduct, negligence, or misappropriation of the funds; or

(2) responsibility for keeping the trust funds safe until the clerk deposits them in a depository selected under this chapter.

(c) After a county or district clerk deposits in a depository selected under this chapter the trust funds held by the clerk, the clerk is relieved of the responsibility for keeping the funds safe. (V.A.C.S. Art. 2558a, Sec. 9.)

Sec. 117.082. OFFENSES RELATED TO CLERK'S PERFORMANCE OF OFFICE.

(a) A county or district clerk commits an offense if the clerk does not perform a duty required by this chapter or performs an act prohibited by this chapter.

(b) An offense under this section is punishable by a fine of not more than \$5,000, confinement in jail for not more than two years, or both fine and confinement.

(c) In addition to the punishment prescribed by Subsection (b), a county or district clerk who does not perform a duty required by this chapter or who performs an act prohibited by this chapter may be punished for contempt. (V.A.C.S. Art. 2558a, Sec. 15.)

Sec. 117.083. LOSS OF TRUST FUNDS. If trust funds held by a county or district clerk and deposited by the county with a depository selected under this chapter are lost for any reason, including a loss due to the insolvency of the depository, the county is liable to the rightful owner of the funds for the full amount of the funds due the owner. (V.A.C.S. Art. 2558a, Sec. 10.)

Sec. 117.084. FAILURE OF DEPOSITORY TO PAY CHECK ON PRESENTMENT. A depository selected under this chapter that does not pay a check under Section 117.056 shall forfeit and pay to the holder 10 percent of the amount of the check. (V.A.C.S. Art. 2558a, Sec. 6 (part).)

CHAPTER 118. FEES CHARGED BY COUNTY OFFICERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 118.001. DEFINITION

[Sections 118.002–118.010 reserved for expansion]

SUBCHAPTER B. FEES OF COUNTY CLERK OTHER THAN COURT FEES

- Sec. 118.011. FEE SCHEDULE
- Sec. 118.012. PERSONAL PROPERTY RECORDS FILING
- Sec. 118.013. REAL PROPERTY RECORDS FILING
- Sec. 118.014. CERTIFIED PAPERS
- Sec. 118.015. BIRTH OR DEATH CERTIFICATE
- Sec. 118.016. BOND APPROVAL
- Sec. 118.017. NOTARY APPOINTMENT
- Sec. 118.018. MARRIAGE LICENSE
- Sec. 118.019. DECLARATION OF INFORMAL MARRIAGE
- Sec. 118.020. BRAND REGISTRATION
- Sec. 118.021. OATH ADMINISTRATION
- Sec. 118.022. DISPOSITION OF MARRIAGE LICENSE AND DECLARATION FEES
- Sec. 118.023. FEES FOR EX OFFICIO SERVICES
- Sec. 118.024. FREE ACCESS TO RECORDS

[Sections 118.025–118.050 reserved for expansion]

SUBCHAPTER C. FEES OF CLERK OF COUNTY COURT

- Sec. 118.051. CLERICAL DUTIES
- Sec. 118.052. FEE SCHEDULE
- Sec. 118.053. FILING OF ORIGINAL ACTION
- Sec. 118.054. FILING OF ACTION OTHER THAN ORIGINAL
- Sec. 118.055. PROBATE ORIGINAL ACTION
- Sec. 118.056. SERVICES IN PENDING PROBATE ACTION
- Sec. 118.057. ADVERSE PROBATE ACTION
- Sec. 118.058. CLAIM AGAINST ESTATE
- Sec. 118.059. ISSUING DOCUMENT REQUIRING RETURN, NO PENDING ACTION
- Sec. 118.060. CERTIFIED PAPERS, NO RETURN REQUIRED
- Sec. 118.061. LETTERS AND ABSTRACTS
- Sec. 118.062. SAFEKEEPING OF WILLS
- Sec. 118.063. MAIL SERVICE OF PROCESS
- Sec. 118.064. ADDITIONAL FEE IN ORIGINAL PROBATE ACTION
- Sec. 118.065. FREE ACCESS TO RECORDS

[Sections 118.066–118.100 reserved for expansion]

SUBCHAPTER D. FEES OF COUNTY JUDGE

- Sec. 118.101. FEE SCHEDULE

[Sections 118.102–118.120 reserved for expansion]

SUBCHAPTER E. FEES OF JUSTICE OF THE PEACE

- Sec. 118.121. FEE SCHEDULE
- Sec. 118.122. FEES BEFORE ENTRY OF JUDGMENT
- Sec. 118.123. FEES AFTER ENTRY OF JUDGMENT

[Sections 118.124–118.130 reserved for expansion]

SUBCHAPTER F. FEES OF SHERIFF AND CONSTABLE

- Sec. 118.131. FEES SET BY COMMISSIONERS COURT
- Sec. 118.132. SERVICE OF PROCESS FOR APPELLATE COURT

[Sections 118.133–118.140 reserved for expansion]

SUBCHAPTER G. FEES OF COUNTY TREASURER

- Sec. 118.141. FEE SCHEDULE
- Sec. 118.142. RETURNED CHECK
- Sec. 118.143. STOP-PAYMENT ORDER
- Sec. 118.144. COPY OF CHECK OR OTHER RECORD
- Sec. 118.145. DISPOSITION OF FEES COLLECTED

[Sections 118.146–118.160 reserved for expansion]

SUBCHAPTER H. FEES OF COUNTY SURVEYOR

Sec. 118.161. FEE SCHEDULE

CHAPTER 118. FEES CHARGED BY COUNTY OFFICERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 118.001. DEFINITION. In this chapter, “document” includes any instrument, document, paper, or record. (New.)

[Sections 118.002–118.010 reserved for expansion]

SUBCHAPTER B. FEES OF COUNTY CLERK OTHER THAN COURT FEES

Sec. 118.011. FEE SCHEDULE. (a) A county clerk shall collect the following fees for services rendered to any person:

- (1) Personal Property Records Filing (Sec. 118.012) \$ 2.00
- (2) Real Property Records Filing (Sec. 118.013):
 - for the first page..... \$ 3.00
 - for each additional page or part of a page on which there are visible marks of any kind..... \$ 2.00
 - for all or part of each 8-1/2" X 14" attachment or rider..... \$ 2.00
 - for each name in excess of five names that has to be indexed in all records in which the document must be indexed \$ 0.25
- (3) Certified Papers (Sec. 118.014):
 - for the clerk’s certificate..... \$ 1.00
 - plus a fee for each page or part of a page of..... \$ 1.00
- (4) Birth or Death Certificate (Sec. 118.015).....same as state registrar
- (5) Bond Approval (Sec. 118.016)..... \$ 3.00
- (6) Notary Appointment (Sec. 118.017)..... \$ 4.00
- (7) Marriage License (Sec. 118.018)..... \$25.00
- (8) Declaration of Informal Marriage (Sec. 118.019)..... \$25.00
- (9) Brand Registration (Sec. 118.020)..... \$ 5.00
- (10) Oath Administration (Sec. 118.021)..... \$ 1.00

(b) The clerk shall charge reasonable fees for performing other duties prescribed or authorized by statute for which a fee is not prescribed by this subchapter. (V.A.C.S. Arts. 3930 (part), 3930a-1(1) (part), (2) (part).)

Sec. 118.012. PERSONAL PROPERTY RECORDS FILING. (a) The fee for “Personal Property Records Filing” under Section 118.011 is for filing or filing and registering, including indexing, in the personal property, chattels, or personal records in the office of the county clerk a document that is authorized or required to be filed in those records.

(b) The fee does not apply to:

- (1) notary public records;
- (2) marriage records;
- (3) vital statistics records;
- (4) documents filed in the records of county civil or criminal courts or probate courts;
- (5) documents filed and recorded in the real property records in the office of the county clerk; or
- (6) instruments for which the filing fee is fixed by the Business & Commerce Code.

(c) This fee is in addition to any other specific fee provided for by other statute. (V.A.C.S. Art. 3930 (part).)

Sec. 118.013. REAL PROPERTY RECORDS FILING. (a) The fee for "Real Property Records Filing" under Section 118.011 is for filing and recording, including indexing, in the real property records in the office of the county clerk a document that is authorized or required to be filed in those records.

(b) A county clerk who files, registers, or records an instrument by manual copying instead of copying by photocopy, photostating, or microphotographic process may substitute for the prescribed page fee a fee of 20 cents per 100 words for each page having more than 500 words.

(c) The fee does not apply to:

- (1) map records;
- (2) condominium records;
- (3) notary public records;
- (4) marriage records;
- (5) vital statistics records;
- (6) documents filed in the records of county civil or criminal courts or probate courts; or
- (7) personal property, chattels, and personal records in the office of the county clerk.

(d) The fee is in addition to any other specific fee provided for by other statute. (V.A.C.S. Art. 3930 (part).)

Sec. 118.014. CERTIFIED PAPERS. (a) The fee for "Certified Papers" under Section 118.011 is for the county clerk's certificate and for issuing each certified copy, notice, statement, license, or document that the clerk is authorized or required to issue. The fee must be paid in cash at the time the order is placed.

(b) The fee does not apply to:

- (1) a certified document for the issuance of which this subchapter prescribes another fee;
- (2) a certified copy of map records or condominium records; or
- (3) a license for which the fee for issuance is specifically provided by other statute. (V.A.C.S. Art. 3930 (part).)

Sec. 118.015. BIRTH OR DEATH CERTIFICATE. The fee for "Birth or Death Certificate" under Section 118.011 is for issuing a certified copy of a birth certificate or death certificate and is the same as the fee charged under Section 21, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rule 54a, Article 4477, Vernon's Texas Civil Statutes), by the state registrar of vital statistics and the local registrar of births and deaths. (V.A.C.S. Art. 3930 (part).)

Sec. 118.016. BOND APPROVAL. The fee for "Bond Approval" under Section 118.011 is for approving bonds other than notarial bonds and bonds required to be approved in a county civil or criminal court or in a probate court. The fee must be paid at the time of approval. (V.A.C.S. Art. 3930 (part).)

Sec. 118.017. NOTARY APPOINTMENT. (a) The fee for "Notary Appointment" under Section 118.011 is for all clerical work in having an appointment of a notary public made, administering oaths, and qualifying the notary public and approving, filing, and recording the notarial bond.

(b) The fee must be paid at the time the executed oath and bond is filed.

(c) The fee does not include the fee for the secretary of state. (V.A.C.S. Art. 3930 (part).)

Sec. 118.018. MARRIAGE LICENSE. (a) The fee for "Marriage License" under Section 118.011 is for issuing a marriage license. The fee must be paid at the time the license is issued.

(b) The fee includes every service relating to issuance of the license, including preparing the application, filing health certificates, administering oaths, filing waivers

and orders of the county judge, and issuing and recording all papers including the return of the license. (V.A.C.S. Art. 3930 (part).)

Sec. 118.019. **DECLARATION OF INFORMAL MARRIAGE.** The fee for “Declaration of Informal Marriage” under Section 118.011 is for all services rendered in connection with the execution of a declaration of informal marriage under Section 1.92, Family Code. The fee shall be collected at the time the service is rendered. (V.A.C.S. Art. 3930a-1(1) (part), (2).)

Sec. 118.020. **BRAND REGISTRATION.** The fee for “Brand Registration” under Section 118.011 is for registering a brand, including indexing, searching the records, and issuing the certificate. (V.A.C.S. Art. 3930 (part).)

Sec. 118.021. **OATH ADMINISTRATION.** (a) The fee for “Oath Administration” under Section 118.011 is for administering an oath with or without the seal of the clerk.

(b) The fee does not apply to oaths required to be administered in performing a duty as clerk of county civil or criminal courts or as clerk of a probate court. (V.A.C.S. Art. 3930 (part).)

Sec. 118.022. **DISPOSITION OF MARRIAGE LICENSE AND DECLARATION FEES.** (a) The county clerk shall, not later than the 10th day of each month, send to the comptroller of public accounts \$12.50 of each fee collected during the preceding month for issuance of a marriage license or declaration of informal marriage.

(b) The comptroller shall deposit the money received under this section to the credit of the children’s trust fund established under Section 74.006, Human Resources Code. (V.A.C.S. Art. 3930a-2.)

Sec. 118.023. **FEES FOR EX OFFICIO SERVICES.** (a) If the county clerk receives fees for ex officio services or for other public services not otherwise provided for, the commissioners court shall set the fees. The fees shall be paid quarterly out of the county treasury on the order of the commissioners court.

(b) A county clerk may not be compelled to file or record any instrument or writing authorized or required to be recorded until payment for all fees has been tendered. This provision does not apply to papers or instruments filed or recorded in suits pending in county court.

(c) In this section, “ex officio services” includes services in relation to roads, bridges, and ferries; issuing and taking receipts for jury scrip or county warrants; services in habeas corpus cases; making out bar dockets; keeping records of trust funds; filing and docketing all papers for the commissioners court; keeping road overseers’ books and lists of hands; recording all collection returns of delinquent insolvents; recording county treasurer’s reports; recording reports of justices of the peace; recording reports of animals slaughtered; and services in connection with elections. (V.A.C.S. Art. 3932.)

Sec. 118.024. **FREE ACCESS TO RECORDS.** (a) This subchapter does not limit or deny any person full and free access to any document referred to in this subchapter. A person is entitled to read, examine, and copy from those documents or from any microfilm or other photographic image of the documents.

(b) A person may exercise the right provided by this section without paying any charge under the reasonable rules of the county clerk at all reasonable times during the hours in which the clerk’s office is open to the public. (V.A.C.S. Art. 3930 (part).)

[Sections 118.025–118.050 reserved for expansion]

SUBCHAPTER C. FEES OF CLERK OF COUNTY COURT

Sec. 118.051. **CLERICAL DUTIES.** The fees listed in this subchapter for county civil court dockets under Section 118.052(1) and county probate court dockets under Section 118.052(2) are fees for all clerical duties performed in connection with the docket, including:

(1) filing, registering or recording, docketing, and taxing costs for an application, will, complaint, petition, return, document, or proceeding;

(2) issuing and recording the return of a citation, notice, subpoena, commission to take depositions, execution while the docket is still open (civil docket), garnishment before judgment (civil docket), order, writ, process, or any other document authorized or required to be issued by the clerk on which a return must be recorded;

- (3) attendances in court as clerk of the court;
- (4) impaneling a jury (civil docket);
- (5) swearing witnesses;
- (6) approving bonds involved in court action; and
- (7) administering oaths. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.052. FEE SCHEDULE. Each clerk of a county court shall collect the following fees for services rendered to any person:

- (1) **CIVIL COURT ACTIONS**
 - (A) Filing of Original Action (Sec. 118.053):
 - (i) Garnishment after judgment..... \$15.00
 - (ii) All others \$30.00
 - (B) Filing of Action Other than Original (Sec. 118.054)..... \$30.00
- (2) **PROBATE COURT ACTIONS**
 - (A) Probate Original Action (Sec. 118.055):
 - (i) Probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title \$35.00
 - (ii) Community survivors..... \$20.00
 - (iii) Small estates \$10.00
 - (iv) Affidavits of heirship \$10.00
 - (v) Mental health services \$40.00
 - (vi) Additional, special fee (Sec. 118.064) \$ 3.00
 - (B) Services in Pending Probate Action (Sec. 118.056):
 - (i) Filing and recording a document:
 - for the first page..... \$ 3.00
 - for each additional page or part of a page..... \$ 2.00
 - (ii) Approving and recording bond..... \$ 3.00
 - (iii) Administering oath..... \$ 2.00
 - (C) Adverse Probate Action (Sec. 118.057) \$35.00
 - (D) Claim Against Estate (Sec. 118.058)..... \$ 2.00
- (3) **OTHER FEES**
 - (A) Issuing Document Requiring a Return, No Pending Action (Sec. 118.059):
 - original document and one copy \$ 4.00
 - each additional set of an original and one copy \$ 4.00
 - (B) Certified Papers, No Return Required (Sec. 118.060):
 - for the clerk's certificate..... \$ 1.00
 - plus a fee per page or part of a page of..... \$ 1.00
 - (C) Letters Testamentary, Letter of Guardianship, Letter of Administration, or Abstract of Judgment (Sec. 118.061)..... \$ 2.00
 - (D) Safekeeping of Wills (Sec. 118.062) \$ 5.00
 - (E) Mail Service of Process (Sec. 118.063).....same as sheriff

(V.A.C.S. Art. 3930(b), Secs. 1 (part), 1A(a) (part), 3 (part).)

Sec. 118.053. FILING OF ORIGINAL ACTION. (a) The fee for "Filing of Original Action" under Section 118.052(1) is for all clerical duties in connection with an original action filed in a county civil court.

(b) The fee is charged of the plaintiff or appellant and is due at the time the cause is filed. Only one fee is due in each action.

(c) The fee does not apply to actions for which another fee is prescribed by Section 118.052(2) or 118.052(3).

(d) "Original action" includes an appeal from a justice of the peace or a corporation court and a transfer of an action from another jurisdiction. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.054. FILING OF ACTION OTHER THAN ORIGINAL. (a) The fee for "Filing of Action Other than Original" under Section 118.052(1) is for filing of each interpleading, cross action, or action other than the original action.

(b) The fee is charged of the party initiating the action and is due at the time the action is initiated. Only one fee is due for each such action.

(c) The fee does not apply to actions for which another fee is prescribed by Section 118.052(2) or 118.052(3). (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.055. PROBATE ORIGINAL ACTION. (a) The fee for "Probate Original Action" under Section 118.052(2) is for all clerical duties in connection with an original action in a probate court.

(b) The fee for affidavits of heirship includes the filing of the affidavit, after approval by the judge, in the small estates records of the county clerk's office.

(c) The fee for an action involving mental health services is for the services listed in Sections 13, 14, and 15, Texas Mental Health Code (Articles 5547-13, 5547-14, and 5547-15, Vernon's Texas Civil Statutes).

(d) Except as otherwise provided, the fees listed in this section are total fees. The fee for probate of a will with independent executor, administration with a will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title is for services rendered from the initiating of the action until either an order approving the inventory and appraisal is filed or the 90th day after the date on which the action is filed, whichever occurs first.

(e) The fee shall be paid by the party initiating the action and is due at the time the action is initiated, except that with the permission of the court the fee may be paid:

(1) at the time that the legal or personal representative of the estate qualifies; or

(2) if a Veterans Administration chief attorney is the attorney of record, at the time the legal or personal representative of the estate receives funds with which to make the payment.

(f) The fee does not apply to services for which another fee is prescribed by Section 118.052(1), 118.052(2)(B), 118.052(2)(D), or 118.052(3). (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.056. SERVICES IN PENDING PROBATE ACTION. (a) The fees for "Services in Pending Probate Action" under Section 118.052(2) are for services in an action in an open probate docket rendered after the filing of an order approving the inventory and appraisal or after the 90th day after the date of the initial filing of the action, whichever occurs first.

(b) The fee for filing a document also applies to each page or part of a page for the filing of a document or exhibit filed by a movant after the filing of an original answer or response, after the filing of an order approving the inventory and appraisal, or after the 90th day after the date of the initial filing of the action, whichever occurs first, and before the filing of an adverse action, contest, suit, or pleading seeking affirmative relief.

(c) Each fee shall be paid in cash at the time of the filing or the rendering of the service and is in addition to other fees prescribed by Section 118.052. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.057. ADVERSE PROBATE ACTION. (a) The fee for "Adverse Probate Action" under Section 118.052(2) is for clerical duties in an adverse action, contest, or suit in a probate court (other than the filing of a claim against an estate) in which the movant or applicant filing the intervention pleadings seeks any affirmative relief. There is no charge for filing an original answer or response that is strictly defensive to a previously filed pleading.

(b) The fee is charged of the party initiating the adverse action or contest.

(c) The fee does not apply to services for which a fee is prescribed by Section 118.052(1), 118.052(2), 118.052(3)(A), or 118.052(3)(B). (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.058. CLAIM AGAINST ESTATE. (a) The fee for "Claim Against Estate" under Section 118.052(2) is for clerical duties in connection with filing and entering a claim against an estate.

(b) The fee must be paid by the claimant at the time the claim is filed. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.059. ISSUING DOCUMENT REQUIRING RETURN, NO PENDING ACTION. (a) The fees for "Issuing Document Requiring a Return, No Pending Action" under Section 118.052(3) are for services in connection with which no action is pending.

(b) The fee for issuing an original document and one copy includes recording the return of the document.

(c) The fee for issuing for the same action at the same time more than one set of an original and one copy of the same document includes recording the return of the document. The fee must be paid at the time the order is placed.

(d) In this section, "document" includes a citation, notice, commission to take depositions, execution, order, writ, process, or other instrument or paper authorized or required to be issued by the clerk and on which a return must be recorded. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.060. CERTIFIED PAPERS, NO RETURN REQUIRED. (a) The fee for "Certified Papers, No Return Required" under Section 118.052(3) is for the clerk's certificate and for issuing a certificate, certified copy, notice, statement, transcript, or other document authorized or required to be issued by the clerk on which no return is to be recorded.

(b) The fee must be paid at the time the order is placed. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.061. LETTERS AND ABSTRACTS. The fee for "Letters Testamentary, Letter of Guardianship, Letter of Administration, or Abstract of Judgment" under Section 118.052(3) is for the issuing of any of those documents. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.062. SAFEKEEPING OF WILLS. The fee for "Safekeeping of Wills" under Section 118.052(3) is for filing and keeping wills held for safekeeping. The fee must be paid at the time the will is filed. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

Sec. 118.063. MAIL SERVICE OF PROCESS. The fee for "Mail Service of Process" under Section 118.052(3) is for the clerk's service of process by certified or registered mail. The fee is the same amount that sheriffs and constables are authorized to charge under Section 118.131. (V.A.C.S. Art. 3930(b), Sec. 3 (part).)

Sec. 118.064. ADDITIONAL FEE IN ORIGINAL PROBATE ACTION. (a) The fee "Additional, special fee" under Section 118.052(2)(A)(vi) is to be paid for each original action filed in a probate court and is in addition to all other fees.

(b) The fee shall be deposited in the general fund of the county to be used for:

(1) the continuing education of the judge and staff of the probate courts, including the payment of travel and related expenses in attending a continuing judicial education activity of an organization accredited by the supreme court for continuing judicial education; or

(2) the contribution of the county to fund the compensation required by Chapter 781, Acts of the 68th Legislature, Regular Session, 1983 (Article 1969b, Vernon's Texas Civil Statutes), for the presiding judge of the statutory probate courts.

(c) If the fee produces more revenue than required for the purposes provided by Subsection (b), the commissioners court by order shall reduce the fee to an amount that will not produce more revenue than required.

(d) A judge may not expend funds for continuing education without the approval of the commissioners court of the county. The judge of the court shall supply the commissioners court with an itemized receipt for those expenses.

(e) The county auditor shall audit the fees collected in the same manner as other fees collected by the clerk. (V.A.C.S. Art. 3930(b), Secs. 1A(a) (part), (b), (c), (d).)

Sec. 118.065. FREE ACCESS TO RECORDS. (a) This subchapter does not limit or deny any person full and free access to any document referred to in this subchapter. A person is entitled to read, examine, and copy from those documents or from any microfilm or other photographic image of the documents.

(b) A person may, without paying any charge, exercise the right provided by this section under the reasonable rules of the county clerk at all reasonable times during the hours in which the clerk's office is open to the public. (V.A.C.S. Art. 3930(b), Sec. 1 (part).)

[Sections 118.066–118.100 reserved for expansion]

SUBCHAPTER D. FEES OF COUNTY JUDGE

Sec. 118.101. FEE SCHEDULE. The county judge shall collect the following fees in probate matters:

- (1) Probate of a will \$2.00
- (2) Granting letters testamentary, letter of guardianship, or letter of administration \$0.50
- (3) Order of sale \$0.50
- (4) Approval and confirmation of sale \$0.50
- (5) Decree refusing order of sale or confirmation of sale \$0.50
- (6) Decree of partition and distribution \$2.00
- (7) Decree approving or setting aside the report of a commissioner of partition and distribution \$2.00
- (8) Decree removing an executor, administrator or guardian (with the fee to be paid by that executor, administrator, or guardian) \$1.00
- (9) Fiat or certificate \$0.50
- (10) Continuance \$0.10
- (11) Orders for which another fee is not prescribed \$0.50
- (12) Administering oath or affirmation with certificate and seal \$0.50
- (13) Administering oath or affirmation without certificate and seal \$0.25

(V.A.C.S. Art. 3925.)

[Sections 118.102–118.120 reserved for expansion]

SUBCHAPTER E. FEES OF JUSTICE OF THE PEACE

Sec. 118.121. FEE SCHEDULE. A justice of the peace shall collect the following fees for services rendered to any person:

- (1) Services rendered before judgment (Sec. 118.122) \$7.00
- (2) Services rendered after judgment (Sec. 118.123):
 - (A) Transcript \$2.00
 - (B) Abstract of judgment \$1.00
 - (C) Execution, order of sale, writ of restitution, or other writ or process \$2.00
- Issuing other document (no return required) per page copy charge

(V.A.C.S. Art. 3935 (part).)

Sec. 118.122. FEES BEFORE ENTRY OF JUDGMENT. (a) The fee for "Services rendered before judgment" under Section 118.121(1) is for all clerical duties in connection with an original action or a cross action, third party action, or intervention in a justice of the peace court, including:

- (1) filing, filing and registering or recording, docketing, and taxing costs for an application, complaint, petition, return, document, or proceeding;
- (2) issuing and recording the return of a citation, notice, subpoena, commission to take depositions, order, writ, process, or document authorized or required to be issued by the justice of the peace on which a return must be recorded;

- (3) summoning and swearing a jury and receiving and recording jury verdicts;
- (4) swearing witnesses;
- (5) approving bonds involved in court actions;
- (6) administering oaths; and
- (7) rendering and recording judgment.

(b) The fee is paid by the plaintiff or the party initiating the action, cross action, third party action, or intervention at the time the applicable action is initiated. The fee is paid only one time for each of those actions. (V.A.C.S. Art. 3935 (part).)

Sec. 118.123. FEES AFTER ENTRY OF JUDGMENT. (a) The fee for a "Transcript" under Section 118.121(2) is for making and certifying a transcript of the entries on a docket and, in the case of an appeal or certiorari, for filing the transcript with the original papers of the case in the proper court.

(b) The fee for an "Abstract of judgment" under Section 118.121(2) is for issuing an abstract of judgment.

(c) The fee for an "Execution, order of sale, writ of restitution, or other writ or process" under Section 118.121(2) is for issuing and recording the return on any of those documents. The fee applies only to a writ or process for the issuance of which another fee is not provided by this subchapter.

(d) The fee for "Issuing other document (no return required)" under Section 118.121(2) is for issuing a certificate, certified copy, notice, statement, or any other document a justice of the peace is authorized or required to issue on which a return is not to be recorded. The fee for each page or part of a page may not exceed the cost for copies designated by the State Purchasing and General Services Commission under Section 9(a) of the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes). The fee must be paid at the time the order is placed. (V.A.C.S. Art. 3935 (part).)

[Sections 118.124-118.130 reserved for expansion]

SUBCHAPTER F. FEES OF SHERIFF AND CONSTABLE

Sec. 118.131. FEES SET BY COMMISSIONERS COURT. (a) The commissioners court of a county may set reasonable fees to be charged for services by the offices of the sheriff and constables.

(b) The commissioners court may not set fees higher than is necessary to pay the expenses of providing the services.

(c) If the commissioners court does not set fees under this section, the fees for services by the offices of the sheriff and constables are those fees provided by law in effect on August 31, 1981. (V.A.C.S. Art. 3926a; Sec. 3(b) (part), Ch. 379, Acts 67th Legis., R.S., 1981.)

Sec. 118.132. SERVICE OF PROCESS FOR APPELLATE COURT. A sheriff shall collect the same fee for service of process issued by the supreme court or a court of appeals as the fee provided for service of process issued by a district court. (V.A.C.S. Art. 3934.)

[Sections 118.133-118.140 reserved for expansion]

SUBCHAPTER G. FEES OF COUNTY TREASURER

Sec. 118.141. FEE SCHEDULE. The county treasurer may collect the following fees for services rendered to any person:

(1) Returned check (Sec. 118.142)	\$15.00
(2) Stop-payment order (Sec. 118.143)	\$15.00
(3) Copy of check or other record (Sec. 118.144)	\$ 1.00

(V.A.C.S. Art. 3943f, Sec. 1 (part).)

Sec. 118.142. RETURNED CHECK. The fee for "Returned check" under Section 118.141 is for a check that is presented to a county in payment of any service, fee, claim, registration, fine, or other cost of the county and is returned by the depository bank or another bank for any reason considered to be the fault of the drawer, including:

- (1) insufficient funds to cover the check;
- (2) closed account;
- (3) unauthorized signature; or
- (4) drawn on uncollected funds. (V.A.C.S. Art. 3943f, Sec. 1 (part).)

Sec. 118.143. STOP-PAYMENT ORDER. The fee for a "Stop-payment order" under Section 118.141 is for placement of a stop-payment order on a check issued by a county for which the county will be directly or indirectly charged by the depository bank or another bank. (V.A.C.S. Art. 3943f, Sec. 1 (part).)

Sec. 118.144. COPY OF CHECK OR OTHER RECORD. The fee for "Copy of check or other record" under Section 118.141 is for each copy made of a page or part of a page of records, orders, checks, or other papers on file or of record in the treasurer's office. The fee applies to both certified and uncertified copies. (V.A.C.S. Art. 3943f, Sec. 1 (part).)

Sec. 118.145. DISPOSITION OF FEES COLLECTED. The fees collected under this subchapter shall be deposited in the general fund of the county to the credit of the county treasurer fees of office account. (V.A.C.S. Art. 3943f, Sec. 2.)

[Sections 118.146–118.160 reserved for expansion]

SUBCHAPTER H. FEES OF COUNTY SURVEYOR

Sec. 118.161. FEE SCHEDULE. A county surveyor shall collect the following fees:

- (1) Inspecting and recording the field notes and plat of a survey for any tract of land:
 - (A) less than one-third of a league \$1.00
 - (B) one-third of a league..... \$2.00
 - (C) more than one-third of a league \$3.00
- (2) Recording surveys and plats required by law to be placed on the map of a new county, for each 100 words \$0.20
- (3) Examination of papers and records in his office at the request of any person \$0.25
- (4) Copies of all field notes and plats, or other papers or records in the office, for each 100 words, including certificate \$0.20
- (5) Surveying of any tract of land, including all expenses in making the survey, and returning the plat and field notes of the survey:
 - (A) for each English lineal mile actually run..... \$3.00
 - (B) for less than one English lineal mile run \$2.50
- (6) Services in designating a homestead, including pay for chain carriers, for each day's service \$5.00

(V.A.C.S. Art. 3944.)

CHAPTER 119. COUNTY GOVERNMENT LIABILITY INSURANCE POOL

- Sec. 119.001. DEFINITIONS
- Sec. 119.002. CREATION OF RISK MANAGEMENT POOL
- Sec. 119.003. ORGANIZATION OF POOL; TEMPORARY BOARD
- Sec. 119.004. PLAN OF OPERATION
- Sec. 119.005. BOARD OF TRUSTEES
- Sec. 119.006. RISK MANAGEMENT FUND
- Sec. 119.007. CERTAIN REQUIREMENTS FOR INITIAL COVERAGE; SURCHARGE
- Sec. 119.008. NOT INSURANCE; BOARD OF INSURANCE LACKS JURISDICTION

CHAPTER 119. COUNTY GOVERNMENT LIABILITY INSURANCE POOL

Sec. 119.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of trustees of the county government risk management pool.
- (2) "Fund" means the county government risk management fund.
- (3) "Plan" means the plan of operation of the county government risk management pool.
- (4) "Pool" means the County Government Risk Management Pool created under this chapter. (V.A.C.S. Art. 4413(32i), Subsecs. (a)(2), (3), (4), (5).)

Sec. 119.002. **CREATION OF RISK MANAGEMENT POOL.** (a) On the adoption of a resolution by the commissioners courts of at least 10 counties in this state, the County Government Risk Management Pool is created to insure each county in this state that purchases coverage in the pool against liability for that county's acts or omissions under the law.

(b) Any county in this state that meets the criteria established by the pool in its plan of operation may purchase coverage from the pool. The county may use county funds to pay any fees, contributions, or premiums required to be a part of the pool and to obtain coverage through the pool. (V.A.C.S. Art. 4413(32i), Subsecs. (b), (c).)

Sec. 119.003. **ORGANIZATION OF POOL; TEMPORARY BOARD.** On the creation of the pool, each commissioners court adopting a resolution to create the pool shall select one representative to meet with the representatives of the other counties adopting creation resolutions. At the meeting, the representatives shall adopt guidelines for developing an organizational plan for the pool and shall select nine persons from their number to serve as a temporary board of trustees for the pool. (V.A.C.S. Art. 4413(32i), Subsec. (d).)

Sec. 119.004. **PLAN OF OPERATION.** (a) Within 30 days after the date the temporary board is selected, the members of the temporary board shall meet and begin to prepare a detailed plan of operation for the pool. The plan may include any matters relating to the organization and operation of the pool and its finances but must include:

- (1) the organizational structure of the pool, including the number, method of selection, and method of procedure and operation of the regular board of trustees for the pool;
- (2) a summary of the method for managing and operating the pool;
- (3) a description of the fees, contributions, or financial arrangements necessary to cover the initial expenses of the pool, with estimates supported by statistical data of the amounts of those fees, contributions, or other financial arrangements;
- (4) underwriting standards and procedures for the evaluation of risks, which must provide that any county that applies shall be provided coverage for an initial period of at least one year, regardless of that county's loss history;
- (5) procedures for the purchase of reinsurance;
- (6) procedures for the processing and payment of claims;
- (7) methods, procedures, and guidelines for:
 - (A) the establishment of premium rates;
 - (B) the limits of coverage available through the pool; and
 - (C) the management and investment of the county government risk management fund; and
- (8) methods and procedures for defraying losses and expenses of the pool.

(b) The temporary board shall complete the plan within 90 days after the date the temporary board is appointed. (V.A.C.S. Art. 4413(32i), Subsecs. (e) (part), (f).)

Sec. 119.005. BOARD OF TRUSTEES. (a) The board of trustees shall govern, administer, and operate the pool and the fund.

(b) Within 15 days after the date the plan is completed by the temporary board, the initial regular board must be selected and take office as provided by the plan. A person serving on the board who is a county officer or employee performs board duties as additional duties of the person's original office or employment. A member or employee of the board is not liable with respect to any claims for which coverage is provided by the pool or brought against any county covered by the pool.

(c) Each member and each employee of the board who has authority over money in the fund or over money collected or invested by the pool must execute a bond in an amount determined by the board, payable to the pool, and conditioned that the person will faithfully perform the person's duties. The cost of the bond shall be paid by the pool.

(d) The board shall determine premium rates and coverage limits to ensure that the pool and the fund are actuarially sound.

(e) The board may purchase reinsurance for any risks covered by the pool.

(f) The board may employ a fund manager and other persons necessary to carry out this chapter and the plan. The board may employ or contract with insurance carriers or other persons for underwriting, accounting, claims, and other services.

(g) The board may adopt any rules, exercise any powers, and enter into any contracts necessary to carry out this chapter and the plan. (V.A.C.S. Art. 4413(32i), Subsecs. (g), (j), (k), (l), (m), (n).)

Sec. 119.006. RISK MANAGEMENT FUND. (a) On taking office, the initial regular board shall create the county government risk management fund.

(b) The board shall credit to the fund:

- (1) fees, contributions, and premiums collected by the pool;
- (2) investments of money in the fund;
- (3) interest earned on investments made by the pool; and
- (4) any other income received by the pool from any sources.

(c) The board shall manage and invest the money in the fund in the manner provided by the plan. The money in the fund shall be used to pay liability claims and judgments against participating counties up to the limits of the coverage provided by the pool. Money in the fund also may be used to pay the administrative and management costs of the pool and the fund up to the limits provided by the plan. (V.A.C.S. Art. 4413(32i), Subsecs. (h), (i).)

Sec. 119.007. CERTAIN REQUIREMENTS FOR INITIAL COVERAGE; SURCHARGE. (a) To obtain coverage during the initial coverage period, the standards included in the plan may require a county to participate in a risk management appraisal and to adhere to the recommendations made in the appraisal. If the recommended risk management techniques do not sufficiently reduce losses to meet the pool's underwriting criteria within the initial coverage period, the county may be denied subsequent coverage by the pool.

(b) A surcharge may be applied to any risk covered during the initial period if the risk does not meet the basic underwriting criteria established by the board. (V.A.C.S. Art. 4413(32i), Subsec. (e) (part).)

Sec. 119.008. NOT INSURANCE; BOARD OF INSURANCE LACKS JURISDICTION. (a) The pool created under this chapter is not insurance for purposes of the Insurance Code and other laws of this state.

(b) The State Board of Insurance has no jurisdiction over the pool or over any other governmental insurance pool created under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes). (V.A.C.S. Art. 4413(32i), Subsec. (o).)

[Chapters 120–129 reserved for expansion]

CHAPTER 130. MISCELLANEOUS FINANCIAL PROVISIONS
AFFECTING COUNTIES

- Sec. 130.001. SALE OF RIGHTS TO JUDGMENT PROCEEDS
 Sec. 130.002. CHANGE FUND IN COUNTIES WITH POPULATION OF MORE THAN 600,000
 Sec. 130.003. CHANGE FUND IN COUNTIES WITH POPULATION OF 600,000 OR LESS
 Sec. 130.004. SHERIFF'S PETTY CASH FUND IN COUNTY WITH POPULATION OF MORE THAN ONE MILLION
 Sec. 130.005. PETTY CASH FUND FOR COUNTY WELFARE DEPARTMENT IN COUNTY WITH POPULATION OF 800,000 OR MORE
 Sec. 130.006. NATIONAL FOREST RECEIPTS ALLOCATED FOR SCHOOL DISTRICTS AND ROADS
 Sec. 130.007. AID TO STATE AND FEDERAL AGENCIES IN COUNTY WITH POPULATION OF 22,050 TO 23,000

CHAPTER 130. MISCELLANEOUS FINANCIAL PROVISIONS
AFFECTING COUNTIES

Sec. 130.001. SALE OF RIGHTS TO JUDGMENT PROCEEDS. (a) The commissioners court of a county may sell the rights of the county to any judgment proceeds belonging to the county if the principal and sureties on the judgment are insolvent so that under any existing process of law the judgment cannot be collected, either in whole or in part. The court may advertise the sale to the extent that it considers necessary and in the best interest of the county.

(b) If the amount bid for the rights to the judgment proceeds at the public sale is not considered sufficient, the commissioners court shall refuse to accept the bid and shall dispose of the rights in the manner considered most advantageous to the county's interest.

(c) If the court sells the rights to the judgment proceeds, the court shall properly assign the rights to the purchaser. (V.A.C.S. Art. 1621.)

Sec. 130.002. CHANGE FUND IN COUNTIES WITH POPULATION OF MORE THAN 600,000. (a) The commissioners court of a county with a population of more than 600,000 may set aside from the general fund of the county an amount approved by the county auditor for use as a change fund by any county or district official who collects public funds. The fund may be used only to make change in connection with collections that are due and payable to the county, the state, or another political subdivision of the state that are often made by the official.

(b) The bond of that official who receives such a change fund must cover the official's responsibility for the correct accounting and disposition of the change fund.

(c) A change fund may not be used to make loans or advances or to cash checks or warrants of any kind.

(d) On the recommendation of the county auditor, the commissioners court may increase or decrease the change fund at any time. (V.A.C.S. Art. 1630b.)

Sec. 130.003. CHANGE FUND IN COUNTIES WITH POPULATION OF 600,000 OR LESS. (a) The commissioners court of a county with a population of 600,000 or less may set aside from the general fund of the county an amount not to exceed \$100 for any or collecting office for use as a change fund. The change fund may be used by the count or district official who collects public funds for that office. The fund may be used only to make change in connection with collections that are due and payable to the county, the state, or another political subdivision of the state that are lawfully made by the official.

(b) The bond of that official who receives such a change fund must cover the official responsibility for the correct accounting and disposition of the change fund.

(c) A change fund may not be used to make loans or advances or to cash checks or warrants of any kind.

(d) The commissioners court may recall a change fund in whole or in part at any time (V.A.C.S. Art. 1630c.)

Sec. 130.004. SHERIFF'S PETTY CASH FUND IN COUNTY WITH POPULATION OF MORE THAN ONE MILLION. (a) The commissioners court of a county with a population of more than one million may establish a petty cash fund for the sheriff department in an amount not to exceed \$5,000. The court shall appropriate the amount from the general fund of the county.

(b) Unless otherwise authorized by a resolution of the commissioners court, the petty cash fund may be used only to advance funds to an officer or employee of the sheriff department who is required to travel outside the county to conduct an investigation or to obtain custody of a prisoner. (V.A.C.S. Art. 6877-4.)

Sec. 130.005. PETTY CASH FUND FOR COUNTY WELFARE DEPARTMENT IN COUNTY WITH POPULATION OF 800,000 OR MORE. (a) The commissioners court of a county with a population of 800,000 or more, for the support of paupers through a county welfare department, may authorize the disbursement of an amount not to exceed \$2,500 to the head of the county welfare department for use as a petty cash fund in order that the cash is immediately available for transportation and other expenses of the paupers. The petty cash fund must be established under a system provided and installed by the county auditor with reports to be made to the auditor, as the auditor may require, by the head of the county welfare department.

(b) In making payments to support the paupers that the county is required to support the commissioners court, with the concurrence of the county auditor, may make or payment to the head of the county welfare department. The head of the county welfare department may disburse the money to the paupers on warrants designed by the county auditor. The warrants are subject to audit by the county auditor at any time. The disbursements must be reported on forms and at times prescribed by the auditor (V.A.C.S. Art. 2351h, Sec. 1.)

Sec. 130.006. NATIONAL FOREST RECEIPTS ALLOCATED FOR SCHOOL DISTRICTS AND ROADS. The commissioners court of a county in which a national forest is located and that receives funds from the federal government under 16 U.S.C. Section 50 shall allocate 50 percent of the funds to the school districts of the county in proportion to the area encompassed by each district and shall either allocate the remaining 50 percent for the benefit of the public roads in the county or transfer that amount to the school districts. (V.A.C.S. Art. 2351b-4.)

Sec. 130.007. AID TO STATE AND FEDERAL AGENCIES IN COUNTY WITH POPULATION OF 22,050 TO 23,000. In each county with a population of 22,050 to 23,000 the commissioners court may provide financial aid and facilities, as the court considers necessary, to a state or federal governmental agency or bureau that conducts activities and maintains projects within the county. (V.A.C.S. Art. 2351b-2.)

SUBTITLE C. FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE
TYPE OF LOCAL GOVERNMENT

CHAPTER 131. DEPOSITORY PROVISIONS AFFECTING FUNDS OF MUNICIPAL-
ITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. SPECIAL DEPOSITORY

- Sec. 131.001. SPECIAL DEPOSITORY AUTHORIZED
- Sec. 131.002. DUTIES OF SPECIAL DEPOSITORY
- Sec. 131.003. SPECIAL DEPOSITORY CONTRACT
- Sec. 131.004. BOND

[Sections 131.005–131.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 131.901. OUT-OF-STATE DEPOSITORY PROHIBITED
- Sec. 131.902. PURSUIT OF LEGAL REMEDIES AGAINST SUSPENDED BANK

SUBTITLE C. FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE
TYPE OF LOCAL GOVERNMENT

CHAPTER 131. DEPOSITORY PROVISIONS AFFECTING FUNDS OF MUNICIPAL-
ITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. SPECIAL DEPOSITORY

Sec. 131.001. SPECIAL DEPOSITORY AUTHORIZED. If a bank that is a depository under state law for the public funds of a county, municipality, or district suspends business or is taken charge of by the banking commissioner of Texas or the federal comptroller of the currency, the local government authority authorized to select the original depository may select by contract a special depository for the public funds in the suspended bank. (V.A.C.S. Art. 2567 (part).)

Sec. 131.002. DUTIES OF SPECIAL DEPOSITORY. The special depository shall assume the payment of the amount of public funds due by the suspended bank on the date of its suspension, including interest to that date, and shall pay that amount to the designated local government authority in accordance with the contract entered into by the special depository. (V.A.C.S. Art. 2567 (part).)

Sec. 131.003. SPECIAL DEPOSITORY CONTRACT. (a) The contract must require the payment of the deposit in installments as agreed to by the parties. The last installment must be paid not later than three years from the date of the contract.

(b) The parties may contract for the installments or the amount due to be evidenced by negotiable certificates of deposit or cashier's checks, payable at specified dates.

(c) The contract must set the rate of interest applicable to the funds placed in the special depository under this subchapter unless the parties agree that the funds are not to bear interest. (V.A.C.S. Art. 2567 (part).)

Sec. 131.004. BOND. (a) To secure the performance of a special depository contract, the special depository shall execute a bond, or bonds in the case of installments, with the same character of sureties required for regular depository bonds.

(b) The local government authority authorized by law to approve a bond of a regularly selected depository must approve a bond of a special depository. (V.A.C.S. Art. 2567 (part).)

[Sections 131.005–131.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 131.901. OUT-OF-STATE DEPOSITORY PROHIBITED. (a) The governing body of a political subdivision, including a county, municipality, school district, or other district, may not designate a financial institution located outside the state as a depository for funds under the governing body's jurisdiction.

(b) An institution selected as a paying agent for specific bonds or obligations is not considered a depository for purposes of this section. (V.A.C.S. Art. 2546a.)

Sec. 131.902. PURSUIT OF LEGAL REMEDIES AGAINST SUSPENDED BANK. A county, municipality, or district authority may proceed with available legal remedies against a suspended bank that is a depository for public funds of the authority if the authority considers that action to be in the best interest of the public. (V.A.C.S. Art. 2569 (part).)

CHAPTER 132. PAYMENT OF FEES AND OTHER COSTS BY CREDIT CARD IN MUNICIPALITIES AND COUNTIES

- Sec. 132.001. DEFINITION
- Sec. 132.002. PAYMENT OF FEES OR COSTS BY CREDIT CARD
- Sec. 132.003. PROCESSING FEE
- Sec. 132.004. SERVICE CHARGE
- Sec. 132.005. ENCUMBRANCE OF CREDIT CARDS; FEE
- Sec. 132.006. DISPOSITION OF FEES AND CHARGES

CHAPTER 132. PAYMENT OF FEES AND OTHER COSTS BY CREDIT CARD IN MUNICIPALITIES AND COUNTIES

Sec. 132.001. DEFINITION. In this chapter, "credit card" means a card, plate, or similar device used to make purchases on credit or to borrow money. (V.A.C.S. Art. 3910a, Sec. 1.)

Sec. 132.002. PAYMENT OF FEES OR COSTS BY CREDIT CARD. (a) The commissioners court of a county may authorize a county or precinct officer who collects fees, fines, court costs, or other charges to:

- (1) accept payment by credit card of a fee, fine, court cost, or other charge; and
- (2) collect a fee for processing the payment by credit card.

(b) The governing body of a municipality may authorize a municipal official who collects fees, fines, court costs, or other charges to:

- (1) accept payment by credit card of a fee, fine, court cost, or other charge; and
- (2) collect a fee for processing the payment by credit card. (V.A.C.S. Art. 3910a, Sec. 2.)

Sec. 132.003. PROCESSING FEE. (a) The commissioners court shall set the processing fee in an amount that is reasonably related to the expense incurred by the county or precinct officer in processing the payment by credit card. However, the court may not set the processing fee in an amount that exceeds five percent of the amount of the fee, court cost, or other charge being paid.

(b) The governing body of a municipality shall set the processing fee in an amount that is reasonably related to the expense incurred by the municipal official in processing the payment by credit card. However, the governing body may not set the processing fee in an amount that exceeds five percent of the amount of the fee, fine, court cost, or other charge being paid. (V.A.C.S. Art. 3910a, Sec. 3.)

Sec. 132.004. SERVICE CHARGE. If, for any reason, a payment by credit card is not honored by the credit card company on which the funds are drawn, the county or municipality may collect a service charge from the person who owes the fee, fine, court cost, or other charge. The service charge is in addition to the original fee, fine, court cost, or other charge and is for the collection of that original amount. The amount of the service charge is the same amount as the fee charged for the collection of a check drawn on an account with insufficient funds. (V.A.C.S. Art. 3910a, Sec. 5 (part).)

Sec. 132.005. ENCUMBRANCE OF CREDIT CARDS; FEE. A county or municipality may contract with a company that issues credit cards to collect and seize credit cards issued by the company that are outdated or otherwise unauthorized. The county or municipality may charge the company a fee for the return of the credit cards. (V.A.C.S. Art. 3910a, Sec. 6(a).)

Sec. 132.006. DISPOSITION OF FEES AND CHARGES. (a) The county or precinct officer collecting a fee or charge under this chapter shall deposit the fee or charge in the general fund of the county.

(b) The municipal official collecting a fee or charge under this chapter shall deposit the fee or charge in the general fund of the municipality. (V.A.C.S. Art. 3910a, Secs. 4, 5 (part), 6(b), (c).)

[Chapters 133–139 reserved for expansion]

CHAPTER 140. MISCELLANEOUS FINANCIAL PROVISIONS AFFECTING MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

Sec. 140.001. RELIEF UNDER FEDERAL BANKRUPTCY LAWS FOR MUNICIPALITY, TAXING DISTRICT, OR OTHER POLITICAL SUBDIVISION

Sec. 140.002. INVESTMENTS BY POLITICAL SUBDIVISION IN DEFENSE BONDS AND OTHER FEDERAL OBLIGATIONS

CHAPTER 140. MISCELLANEOUS FINANCIAL PROVISIONS AFFECTING MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

Sec. 140.001. RELIEF UNDER FEDERAL BANKRUPTCY LAWS FOR MUNICIPALITY, TAXING DISTRICT, OR OTHER POLITICAL SUBDIVISION. (a) A municipality, taxing district, or other political subdivision that is subject to this section may proceed under all federal bankruptcy laws intended to relieve municipal indebtedness.

(b) A municipality is subject to this section if it has the power to incur indebtedness through the action of its governing body. A taxing district or other political subdivision is subject to this section if it has the power to incur indebtedness either through the action of its governing body or through that of the county or municipality in which it is located.

(c) The officials and governing body of the municipality, taxing district, or other political subdivision may adopt all proceedings and take any action necessary or convenient to fully avail the entity of the federal bankruptcy laws. (V.A.C.S. Art. 1024a (part).)

Sec. 140.002. INVESTMENTS BY POLITICAL SUBDIVISION IN DEFENSE BONDS AND OTHER FEDERAL OBLIGATIONS. A political subdivision that has a balance remaining in any of its accounts at the end of a fiscal year may invest the balance in defense bonds or other obligations of the United States. If those funds are needed, the political subdivision shall sell or redeem the federal obligations in which the funds are invested and shall deposit the proceeds of the obligations in the account from which they were originally drawn. (V.A.C.S. Art. 1269j–3.)

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE A. MUNICIPAL OFFICERS AND EMPLOYEES

CHAPTER 141. COMPENSATION AND EXPENSES OF MUNICIPAL OFFICERS AND EMPLOYEES

SUBCHAPTER A. COMPENSATION, EXPENSES, AND PAYROLL DEDUCTIONS

- Sec. 141.001. ELECTED AND APPOINTED OFFICERS IN TYPE A GENERAL-LAW MUNICIPALITIES
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- Sec. 141.006. POLICE OFFICERS IN TYPE A GENERAL-LAW MUNICIPALITY
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[Sections 141.009–141.030 reserved for expansion]

SUBCHAPTER B. COMPENSATION OF EMPLOYEES OF FIRE AND POLICE DEPARTMENTS IN CERTAIN MUNICIPALITIES

- Sec. 141.031. BASE SALARY
- Sec. 141.032. LONGEVITY PAY
- Sec. 141.033. CLASSIFICATION OF POSITIONS; SALARY SCHEDULE
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TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE A. MUNICIPAL OFFICERS AND EMPLOYEES

CHAPTER 141. COMPENSATION AND EXPENSES OF MUNICIPAL OFFICERS AND EMPLOYEES

SUBCHAPTER A. COMPENSATION, EXPENSES, AND PAYROLL DEDUCTIONS

Sec. 141.001. ELECTED AND APPOINTED OFFICERS IN TYPE A GENERAL-LAW MUNICIPALITIES. (a) On or before January 1 preceding a regular municipal election, the governing body of a Type A general-law municipality shall set:

- (1) the salary and any fees of office of the mayor to be elected at that election, if the office of mayor is to be filled at the election;
- (2) the compensation of each other elected officer to be elected at that election; and
- (3) the compensation of each officer appointed by the governing body.

(b) An officer's compensation set under this section may not be changed during the term for which the officer is elected or appointed. (V.A.C.S. Arts. 1002 (part), 1010.)

Sec. 141.002. APPOINTED OFFICERS IN TYPE B GENERAL-LAW MUNICIPALITIES. The governing body of a Type B general-law municipality may set the amount of compensation of officers appointed by the governing body. (V.A.C.S. Art. 1146 (part).)

Sec. 141.003. GOVERNING BODY IN TYPE C GENERAL-LAW MUNICIPALITIES. (a) In a Type C general-law municipality, the mayor and each member of the governing body are entitled to receive \$5 a day for each regular meeting and \$3 a day for each special meeting of the governing body.

(b) The mayor or a member of the governing body may not be paid for more than five special meetings in a single month.

(c) In a municipality with a population of 2,000 or more, in lieu of per diem compensation under Subsection (a), the governing body may set the salary of the mayor and each

member of the governing body. The amount of salary set for the mayor may not exceed \$1,200 a year and the amount of salary set for each member of the governing body may not exceed \$600 a year.

(d) In a municipality with a population of less than 2,000, in lieu of per diem compensation under Subsection (a), the governing body may set the mayor's salary at an amount not to exceed \$600 a year.

(e) The governing body may set the amount of salary or other compensation to be paid to the municipal clerk, the municipal attorney, the members of the police force, and other officers appointed by the governing body. (V.A.C.S. Arts. 1161 (part), 1164 (part).)

Sec. 141.004. OFFICERS IN HOME-RULE MUNICIPALITIES. The governing body of a home-rule municipality may set the amount of compensation for each officer of the municipality. (V.A.C.S. Art. 1175, Subdiv. 1 (part).)

Sec. 141.005. ELECTED OFFICERS IN MUNICIPALITIES WITH POPULATION OF 1.2 MILLION OR MORE. (a) In a municipality with a population of 1.2 million or more, the governing body may set the amount of salary and expenses to be paid to elected officers by ordinance adopted in accordance with this section.

(b) The salary of a state district court judge of the county in which the municipality is located is the comparative salary for the ordinance. In the ordinance:

- (1) the salary of the municipal comptroller may not exceed the comparative salary;
- (2) the salary of a member of the governing body may not exceed 40 percent of the comparative salary; and
- (3) the salary of the mayor may not exceed 150 percent of the comparative salary.

(c) The governing body shall publish notice of the proposed ordinance in a newspaper of general circulation in the municipality for two consecutive weeks immediately preceding the week in which the meeting is to be held at which the proposed ordinance is to be considered. The notice must include:

- (1) a general description of the proposed ordinance;
- (2) a statement that a public hearing will be held before the ordinance is adopted;
- (3) a statement of the time and place of the public hearing; and
- (4) a statement that any interested person may appear and testify at the hearing.

(d) The governing body must hold a public hearing before considering the adoption of the proposed ordinance. The ordinance must be approved by a majority vote of the membership of the governing body.

(e) A certified copy of an ordinance adopted under this section must be filed with the municipal secretary within 10 days after the date the ordinance is enacted. The ordinance takes effect on the first day of the next term of office for the officer to whom the ordinance applies, unless the ordinance prescribes a later effective date.

(f) The governing body may submit an ordinance proposed under this section to the voters for their approval in the same manner that charter amendments are submitted under Chapter 9. When an election is held under this subsection, another election on the same proposition may not be called until two years have elapsed after the date of the election. (V.A.C.S. Art. 1010a.)

Sec. 141.006. POLICE OFFICERS IN TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law municipality shall set the compensation, including any fees of office, for the municipal police officers and watchmen. (V.A.C.S. Art. 998 (part); Art. 1015, Subdiv. 18 (part).)

Sec. 141.007. POLICE RESERVE FORCE. The governing body of a municipality may provide for the uniform compensation of members of the municipal police reserve force. If a member of the reserve force is compensated, the compensation must be based only on the time served by the member in training for, or in the performance of, official duties. Members of the reserve force may serve without compensation. (V.A.C.S. Art. 998a, Sec. (e).)

Sec. 141.008. PAYROLL DEDUCTIONS IN CERTAIN MUNICIPALITIES. (a) The governing body of a municipality with a population of more than 10,000 may deduct from a municipal employee's monthly salary or wages an amount requested in writing by the

employee in payment of membership dues to a bona fide employees' association named by the employee.

(b) Participation in the payroll deduction program by a municipal employee who is on active full-time duty is voluntary.

(c) An employee's written request must:

(1) be set out in a form prescribed and provided by the municipal treasurer or comptroller;

(2) state the amount to be deducted each month; and

(3) direct the municipal treasurer or comptroller to transfer the deducted funds to the designated employees' association.

(d) The amount deducted each month may not exceed the amount stated in the written request. However, the governing body of a municipality having a program under this section may impose and collect an administrative fee from each participating employee in addition to the membership dues that are withheld. The fee must be a reasonable amount to reimburse the municipality for the administrative costs of collecting, accounting for, and disbursing the membership dues.

(e) A request under this section remains in effect until the municipal treasurer or comptroller receives a written notice of revocation in a form prescribed and provided by the treasurer or comptroller and filed by the employee. (V.A.C.S. Art. 6252-3a.)

[Sections 141.009–141.030 reserved for expansion]

SUBCHAPTER B. COMPENSATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN CERTAIN MUNICIPALITIES

Sec. 141.031. BASE SALARY. (a) In a municipality with a population of 10,000 to 40,000, each member of the fire or police department is entitled to receive a salary of at least \$165 a month.

(b) In a municipality with a population of 40,001 to 100,000, each member of the fire or police department is entitled to receive a salary of at least \$195 a month.

(c) In a municipality with a population of 100,001 to 175,000, each member of the fire or police department is entitled to receive a salary of at least \$210 a month.

(d) In a municipality with a population of 175,000 or more, each member of the fire or police department is entitled to receive a salary of at least \$220 a month. (V.A.C.S. Art. 1269q, Sec. 1(a) (part), (b) (part).)

Sec. 141.032. LONGEVITY PAY. In a municipality with a population of 10,000 or more, each member of the fire or police department is entitled to receive, in addition to all other money paid for services rendered in the department, longevity pay of \$4 a month for each year of service in the department, not to exceed 25 years. (V.A.C.S. Art. 1269q, Sec. 1(a) (part), (b) (part).)

Sec. 141.033. CLASSIFICATION OF POSITIONS; SALARY SCHEDULE. (a) Each municipality affected by this subchapter shall classify all positions in its fire and police departments and shall specify the duties and prescribe the salary for each classification.

(b) A member of the fire or police department who is required to perform the duties of a particular classification is entitled to be paid the salary prescribed for that position during the time the member performs those duties. (V.A.C.S. Art. 1269q, Sec. 4 (part).)

Sec. 141.034. PETITION TO INCREASE SALARIES. (a) The qualified voters of a municipality with a population of more than 10,000, may petition the governing body of the municipality in accordance with this section to increase the minimum salary of each member of the fire or police department.

(b) A petition under this section must:

(1) state the amount of the proposed minimum salary for each rank, pay grade, or classification;

(2) state the effective date of the proposed salary increase;

(3) designate five qualified voters to act as a committee of petitioners authorized to negotiate with the governing body of the municipality under Subsection (g); and

(4) be signed by a number of qualified voters equal to at least 25 percent of the voters who voted in the most recent municipal election.

- (c) When a petition is filed under this section, the governing body shall:
- (1) adopt the proposed minimum salary stated in the petition;
 - (2) offer an alternative minimum salary proposal under Subsection (g); or
 - (3) call an election on the proposed minimum salary as provided by this section.
- (d) If the governing body chooses to call an election, the only issue that may be submitted is whether the proposed minimum salary should be adopted. The election shall be held on the first authorized uniform election date under Chapter 41, Election Code, that occurs after the 65th day after the date the petition was filed.
- (e) The ballot for the election shall be printed to provide for voting for or against the proposition: "Adoption of the proposed minimum salaries of _____ applicable to _____." The proposed salary for each rank, pay grade, or classification, the affected department, and effective date of the proposed minimum salary as stated in the petition must be inserted in the blank spaces.
- (f) If a majority of the votes cast at the election favor the adoption of the proposed minimum salary, the governing body of the municipality shall cause the minimum salary to take effect not later than the date specified in the petition as the effective date.
- (g) If the governing body chooses to offer an alternative minimum salary proposal, the governing body shall confer with the committee of petitioners designated in the petition and offer the alternative salary proposal. If the committee accepts the alternative salary proposal, the governing body is not required to call an election.
- (h) When an election has been held or an alternative salary proposal has been accepted under this section, a petition for another election under this section may not be filed until one year has elapsed after the date the election was held or the alternative salary proposal was accepted. (V.A.C.S. Art. 1269q, Secs. 1(c), (d), (e).)
- Sec. 141.035. PENALTY. (a) A person who is a municipal official in a municipality with a population of 10,000 or more and who is in charge of the fire or police department or is responsible for setting the compensation provided by this subchapter commits an offense if the person violates this subchapter.
- (b) An offense under this section is punishable by a fine of not less than \$10 or more than \$100.
- (c) Each day on which the municipal official causes or permits a violation of this subchapter to occur is a separate offense. (V.A.C.S. Art. 1269q, Sec. 3 (part).)

CHAPTER 142. ASSISTANCE, BENEFITS, AND WORKING CONDITIONS OF
MUNICIPAL OFFICERS AND EMPLOYEES

- Sec. 142.001. HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN CERTAIN MUNICIPALITIES
- Sec. 142.002. TWO PLATOON FIRE SYSTEM AND HOURS OF LABOR IN CERTAIN MUNICIPALITIES
- Sec. 142.003. HOSPITAL AND MEDICAL ASSISTANCE FOR POLICE RESERVE FORCE
- Sec. 142.004. PAYMENT OF HOSPITALIZATION COSTS FOR PEACE OFFICERS AND FIRE FIGHTERS
- Sec. 142.005. LIABILITY INSURANCE FOR FIRE AND POLICE DEPARTMENT OFFICERS AND EMPLOYEES DRIVING EMERGENCY VEHICLES
- Sec. 142.006. MOTOR VEHICLE LIABILITY INSURANCE FOR PEACE OFFICERS AND FIRE FIGHTERS
- Sec. 142.007. MOTOR VEHICLE LIABILITY INSURANCE FOR FIRE AND POLICE DEPARTMENT OFFICERS AND EMPLOYEES IN MUNICIPALITY OF 1,550,000 OR MORE
- Sec. 142.008. SALARY CONTINUATION PAYMENTS; SUBROGATION
- Sec. 142.009. PAYMENT FOR COURT APPEARANCES OF FIRE FIGHTERS AND POLICE OFFICERS

CHAPTER 142. ASSISTANCE, BENEFITS, AND WORKING CONDITIONS OF
MUNICIPAL OFFICERS AND EMPLOYEES

- Sec. 142.001. HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN CERTAIN MUNICIPALITIES. (a) In this section, "work

cycle” means the period in a posted work schedule starting at the time the cycle begins and ending at the time the cycle begins to repeat itself. The cycle may span any number of days or weeks or a part of a day or week.

(b) A member of a fire or police department in a municipality with a population of more than 25,000 may not, except in an emergency, be required to be on duty more than six days in a week.

(c) A member of a fire or police department in a municipality with a population of more than 30,000 is entitled to 15 vacation days each year with pay if the member has been regularly employed in the department or departments for at least one year. The municipal officials supervising the fire and police departments shall designate the days of the week during which a member of a fire department or police department is not required to be on duty and the days during which the member is allowed to be on vacation.

(d) A fire fighter and a police officer shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees.

(e) A fire fighter may not, except as required by Subsection (h), be required or permitted to work:

(1) more than 72 hours in a calendar week in a municipality with a population of 10,001 to 60,000;

(2) more than an average of 63 hours a week in a calendar year in a municipality with a population of 60,001 to 125,000; or

(3) more than an average of 60 hours a week in a calendar year in a municipality with a population of more than 125,000.

(f) A member of a fire department who does not fight fires, including a mechanic, clerk, investigator, inspector, fire marshal, fire alarm dispatcher, and maintenance worker, in a municipality with a population of more than 10,000, may not, except as provided by Subsection (h):

(1) average more hours in a week than the number of hours in a normal work week of the majority of the employees of the municipality other than fire fighters and police officers; or

(2) be on duty for more days in a work week or average more days on duty a week in a work cycle than the number of days on duty during the work week of the majority of the employees of the municipality other than fire fighters and police officers.

(g) In computing the hours in a work week or the average number of hours in a work week during a work cycle of a fire fighter or other member of a fire department as provided by Subsections (e) and (f), all hours are counted during which the fire fighter or other member of the fire department is required to remain available for immediate call to duty by continuously remaining in contact with a fire department office by telephone or by radio.

(h) A fire fighter or other member of a fire department may be required in an emergency to work more hours in a work week or work cycle than permitted by Subsections (e) and (f). The fire fighter or other member of a fire department is entitled to be paid overtime for the excess hours worked without regard to the number of hours worked in any one week of the work cycle. Overtime hours are paid at a rate equal to 1-½ times the compensation paid to the fire fighter or member of the fire department for regular hours.

(i) A fire fighter may not be required or permitted to work more than an average of 46.7 hours a week during a calendar year in a municipality with a population of more than 1.5 million. If the fire fighter is required to work more than 48 hours a week, the fire fighter is entitled to be compensated for the overtime at a rate equal to 1-½ times the compensation paid to the fire fighter for regular hours.

(j) A police officer in a municipality with a population of more than 10,000 may not, except as provided by Subsection (k) or (l), be required to work more hours during a

calendar week than the number of hours in the normal work week of the majority of the employees of the municipality other than fire fighters and police officers.

(k) In the event of an emergency, a police officer in a municipality with a population of more than 10,000 may be required to work more hours than permitted by Subsection (j). The officer is entitled to be compensated for the overtime at a rate equal to 1-½ times the compensation paid to the officer for regular hours unless the officer elects, with the approval of the governing body of the municipality, to accept compensatory time equal to 1-½ times the number of overtime hours. An emergency is an unexpected happening or event, or an unforeseen situation or crisis, that calls for immediate action and requires the chief or head of the police department to order a police officer to work overtime.

(l) If a majority of police officers working for a municipality sign a written waiver of the prohibition in Subsection (j), the municipality may adopt a work schedule for police officers requiring a police officer to work more hours than permitted by Subsection (j). The officer is entitled to overtime pay if the officer works more hours during a calendar month than the number of hours in the normal work month of the majority of the employees of the municipality other than fire fighters and police officers.

(m) This section does not prohibit the chief or head of a police department from assigning a police officer under the chief's or head's jurisdiction or supervision to work periods of uncompensated duty as prescribed by Section 143.055. A period of uncompensated duty may not be considered or otherwise taken into account in determining compliance with this section, and Subsections (b), (c), (d), (j), (k), and (l) do not apply to or include periods of uncompensated duty to which a police officer is assigned.

(n) This section does not prevent a fire fighter or police officer from working extra hours when exchanging hours of work with another fire fighter or police officer with the consent of the department head.

(o) A municipal official having charge of a fire department or police department commits an offense if the official violates this section. An offense under this subsection is punishable by a fine of not less than \$10 or more than \$100. Each day on which the municipal official causes or permits this section to be violated constitutes a separate offense. (V.A.C.S. Art. 1269p, Secs. 1, 2, 3, 3a, 4, 5, 6, 6A, 6C, 6D, 7, 8.)

Sec. 142.002. TWO PLATOON FIRE SYSTEM AND HOURS OF LABOR IN CERTAIN MUNICIPALITIES. (a) A municipality that maintains an organized, paid fire department shall establish and maintain a two platoon fire system if the municipality:

(1) has a population of 100,001 to 119,999 and is in a county containing more than 900 square miles; or

(2) has a population of 265,000 or more and is in a county containing more than 1,500 square miles.

(b) An employee of a fire department in a municipality covered by Subsection (a) may not be required to be on duty more than 10 consecutive hours during the daytime or more than 14 consecutive hours during the nighttime. The employee may not be required to be on duty more than 14 hours in a period of 24 consecutive hours, except as provided by Subsection (c).

(c) The head or chief officer of a fire department or company in a municipality covered by Subsection (a) shall arrange the working hours of the employees of the department or company so that the employees work, as nearly as practicable, an equal number of hours each month. The working hours of the two platoons may be arranged so that each works 24 hours on duty and has 24 hours off duty. The head or chief officer of the department, or an aide or assistant to the head or chief officer, may require an employee to continue on duty during an emergency for a longer period than specified by Subsection (b).

(d) A person commits an offense if the person violates this section or causes this section to be violated. An offense under this subsection is a misdemeanor and is punishable by a fine of not less than \$10 or more than \$100. Each employee required or permitted to work in violation of this section and each day the section is violated constitute a separate offense. (V.A.C.S. Art. 1269o.)

Sec. 142.003. HOSPITAL AND MEDICAL ASSISTANCE FOR POLICE RESERVE FORCE. (a) The governing body of a municipality may provide hospital and medical

assistance to a member of the police reserve force who sustains injury in the course of performing official duties in the same manner as provided by the governing body for a full-time police officer.

(b) A police reserve officer is eligible for death benefits as provided by Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes).

(c) This section does not authorize a member of a police reserve force to become eligible for participation in a pension fund created under state statute of which a regular officer may become a member by payroll deductions or otherwise. (V.A.C.S. Art. 998a, Sec. (f).)

Sec. 142.004. PAYMENT OF HOSPITALIZATION COSTS FOR PEACE OFFICERS AND FIRE FIGHTERS. (a) In this section, "peace officer" means a peace officer as defined by Article 2.12, Code of Criminal Procedure.

(b) If a peace officer or fire fighter employed by a municipality sustains an injury in the performance of the person's duties that results in permanent incapacity for work and requires constant confinement in a hospital or other institution providing medical treatment, the municipality may pay all costs of the confinement in excess of amounts that are paid under a policy of insurance or by another governmental entity.

(c) To the extent this section permits payments, the municipality is subrogated to the rights of the peace officer or fire fighter in a suit against a third party because of the injury.

(d) To receive funds under this section, a peace officer or fire fighter must furnish the governing body of the municipality:

(1) proof that the injury was sustained in the performance of the person's duties resulting in permanent incapacity for work and requiring constant confinement for medical treatment;

(2) proof of the part of the cost of confinement not paid under a policy of insurance or by another governmental entity; and

(3) any other information or evidence required by the governing body.

(e) This section does not permit payment of costs of constant confinement for medical treatment incurred before August 27, 1973. (V.A.C.S. Art. 999c, Secs. 1 (part), 2, 3, 4, 5.)

Sec. 142.005. LIABILITY INSURANCE FOR FIRE AND POLICE DEPARTMENT OFFICERS AND EMPLOYEES DRIVING EMERGENCY VEHICLES. (a) A municipality may insure the officers and employees of its fire and police departments and other municipal employees who drive emergency vehicles against liability to third persons arising from the use and operation of a motor vehicle used as a municipal emergency medical, fire, or police vehicle in the line of duty by procuring a policy for that purpose from an insurance company authorized to do business in this state.

(b) Insurance taken out by a municipality must be on forms approved by the State Board of Insurance.

(c) A municipality may not purchase liability insurance in excess of \$20,000 because of bodily injury to or death of one person in any one accident, \$100,000 because of bodily injury to or death of two or more persons in any one accident, and \$5,000 because of injury to or destruction of property of others in any one accident. (V.A.C.S. Art. 999d.)

Sec. 142.006. MOTOR VEHICLE LIABILITY INSURANCE FOR PEACE OFFICERS AND FIRE FIGHTERS. (a) In this section, "motor vehicle" means any motor vehicle for which motor vehicle automobile insurance is written under Subchapter A, Chapter 5, Insurance Code.

(b) This section does not apply to a municipality covered by Section 142.007.

(c) A municipality shall insure peace officers and fire fighters in its employ against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the municipality.

(d) The municipality may elect to be self-insured or to reimburse the actual cost of extended automobile liability insurance endorsements obtained by its peace officers and fire fighters on their individually owned automobile liability insurance policies. The extended endorsements must be in amounts not less than those required under this section and shall extend the coverage to include the operation and use of municipal vehicles by the peace officers or fire fighters in the scope of their employment.

(e) A municipality that elects to use the reimbursement method may require that all peace officers and fire fighters who operate and use motor vehicles present proof that an extended coverage endorsement has been purchased and is current.

(f) Liability coverage provided under this section must be in amounts not less than those required by the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) to provide proof of financial responsibility. (V.A.C.S. Art. 999e, Secs. 1 (part), 2, 3.)

Sec. 142.007. MOTOR VEHICLE LIABILITY INSURANCE FOR FIRE AND POLICE DEPARTMENT OFFICERS AND EMPLOYEES IN MUNICIPALITY OF 1,550,000 OR MORE. (a) A municipality with a population of 1,550,000 or more shall insure the officers and employees of its fire and police departments against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the municipality.

(b) The municipality may elect to be self-insured or may purchase insurance from an insurance company authorized to do business in this state.

(c) Insurance purchased by the municipality must be on forms approved by the State Board of Insurance.

(d) The municipality may not purchase liability insurance in excess of \$100,000 because of bodily injury to or death of one person in any one accident, \$300,000 because of bodily injury to or death of two or more persons in any one accident, and \$10,000 because of injury to or destruction of property of others in any one accident. (V.A.C.S. Art. 999d-1.)

Sec. 142.008. SALARY CONTINUATION PAYMENTS; SUBROGATION. (a) If a municipality pays benefits to a municipal employee under a salary continuation program when the employee is injured, the municipality is subrogated to the employee's right of recovery for personal injuries caused by the tortious conduct of a third party other than another employee of the same municipality.

(b) The subrogation extends only to payments made by the municipality.

(c) A municipality may not deny benefits under a salary continuation program because a municipal employee has a cause of action against a third party for personal injuries. (V.A.C.S. Art. 999f.)

Sec. 142.009. PAYMENT FOR COURT APPEARANCES OF FIRE FIGHTERS AND POLICE OFFICERS. (a) A municipality shall pay a fire fighter or police officer for an appearance as a witness in a criminal suit or a civil suit in which the municipality or other political subdivision or government agency is a party in interest if the appearance:

(1) is required;

(2) is made on time off; and

(3) is made by the fire fighter or police officer in the capacity of a fire fighter or police officer.

(b) Payment under this section is at the fire fighter's or police officer's regular rate of pay.

(c) Payment under this section may be taxed as court costs in civil suits.

(d) This section does not reduce or prohibit compensation paid in excess of the regular rate of pay. (V.A.C.S. Art. 1269r.)

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CHAPTER 143. MUNICIPAL CIVIL SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 143.001. PURPOSE. (a) The purpose of this chapter is to secure efficient fire and police departments composed of capable personnel who are free from political influence and who have permanent employment tenure as public servants.

(b) The members of the Fire Fighters' and Police Officers' Civil Service Commission shall administer this chapter in accordance with this purpose. (V.A.C.S. Art. 1269m, Sec. 16a (part).)

Sec. 143.002. MUNICIPALITIES COVERED BY CHAPTER. This chapter applies only to a municipality that:

- (1) has a population of 10,000 or more;
- (2) has a paid fire department and police department; and
- (3) has voted to adopt this chapter or the law codified by this chapter. (V.A.C.S. Art. 1269m, Secs. 1, 27(a) (part).)

Sec. 143.003. DEFINITIONS. In this chapter:

- (1) "Commission" means the Fire Fighters' and Police Officers' Civil Service Commission.
- (2) "Department head" means the chief or head of a fire or police department or that person's equivalent, regardless of the name or title used.
- (3) "Director" means the director of fire fighters' and police officers' civil service.
- (4) "Fire fighter" means a member of a fire department who was appointed in substantial compliance with this chapter or who is entitled to civil service status under Section 143.005 or 143.084. The term includes fire fighters who perform:
 - (A) fire suppression;
 - (B) fire prevention;
 - (C) fire training;
 - (D) fire safety education;
 - (E) fire maintenance;
 - (F) fire communications;
 - (G) fire medical emergency technology;
 - (H) fire photography; or
 - (I) fire administration.

(5) "Police officer" means a member of a police department or other peace officer who was appointed in substantial compliance with this chapter or who is entitled to civil service status under Section 143.005, 143.084, or 143.103. (V.A.C.S. Art. 1269m, Sec. 2)

Sec. 143.004. ELECTION TO ADOPT OR REPEAL CHAPTER. (a) A municipality may hold an election to adopt or repeal this chapter as provided by this section.

(b) If the governing body of the municipality receives a petition requesting an election that is signed by a number of qualified voters of the municipality equal to at least 1

percent of the number of voters who voted in the most recent municipal election, the governing body shall order an election submitting to the voters the question of whether this chapter should be adopted. The election must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the petition is filed and that allows sufficient time to comply with other requirements of law.

(c) The ballot shall be printed to provide for voting for or against the proposition: "Adoption of the fire fighters' and police officers' civil service law." However, this chapter may be adopted to apply only to the fire or police department, and in that case, the ballot shall be printed to reflect the department that would be covered by this chapter. If a majority of the votes received in the election are in favor of adoption of this chapter, the governing body shall implement this chapter.

(d) If an election is held under Subsection (b), a petition for a subsequent election to be held under that subsection may not be filed for at least one year after the date the previous election was held. To be valid, a petition for a subsequent election must contain the signatures of a number of qualified voters of the municipality equal to at least 20 percent of the number of voters who voted in the most recent municipal election. Any subsequent election must be held at the next general municipal election that occurs after the petition is filed.

(e) If the governing body of a municipality that has operated under this chapter for at least one year receives a petition requesting an election to repeal this chapter that is signed by at least 10 percent of the qualified voters of the municipality, the governing body shall order an election submitting to the voters the question on whether this chapter should be repealed. If a majority of the qualified voters vote to repeal this chapter, this chapter is void in that municipality. (V.A.C.S. Art. 1269m, Secs. 27(a) (part), 27(b).)

Sec. 143.005. STATUS OF EMPLOYEES IF CHAPTER ADOPTED. Each fire fighter or police officer serving in a municipality that adopts this chapter and who has been in the service of the municipality for more than six months at the time this chapter is adopted and who is entitled to civil service classification has the status of a civil service employee and is not required to take a competitive examination to remain in the position the person occupies at the time of the adoption. (V.A.C.S. Art. 1269m, Sec. 24.)

Sec. 143.006. IMPLEMENTATION: COMMISSION. (a) On adoption of this chapter, the Fire Fighters' and Police Officers' Civil Service Commission is established in the municipality. The chief executive of the municipality shall appoint the members of the commission within 60 days after the date this chapter is adopted. Within 30 days after the date the municipality's first full fiscal year begins after the date of the adoption election, the governing body of the municipality shall implement this chapter.

(b) The commission consists of three members appointed by the municipality's chief executive and confirmed by the governing body of the municipality. Members serve staggered three-year terms with the term of one member expiring each year. If a vacancy occurs or if an appointee fails to qualify within 10 days after the date of appointment, the chief executive shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(c) A person appointed to the commission must:

- (1) be of good moral character;
- (2) be a United States citizen;
- (3) be a resident of the municipality who has resided in the municipality for more than three years;
- (4) be over 25 years of age; and
- (5) not have held a public office within the preceding three years.

(d) In making initial appointments, the chief executive shall designate one member to serve a one-year term, one member to serve a two-year term, and one member to serve a three-year term. If a municipality has a civil service commission immediately before this chapter takes effect in that municipality, that civil service commission shall continue as the commission established by this section and shall administer the civil service system as prescribed by this chapter. As the terms of the members of the previously existing

commission expire, the chief executive shall appoint members as prescribed by this section. If necessary to create staggered terms as prescribed by this section, the chief executive shall appoint the initial members, required to be appointed under this chapter, to serve terms of less than three years.

(e) Initial members shall elect a chairman and a vice-chairman within 10 days after the date all members have qualified. Each January, the members shall elect a chairman and a vice-chairman.

(f) The governing body of the municipality shall provide to the commission adequate and suitable office space in which to conduct business.

(g) The chief executive of a municipality commits an offense if the chief executive knowingly or intentionally fails to appoint the initial members of the commission within the 60-day period prescribed by Subsection (a). An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$200. Each day after the 60-day period that the chief executive knowingly or intentionally fails to make a required appointment constitutes a separate offense.

(h) The chief executive of a municipality or a municipal official commits an offense if the person knowingly or intentionally refuses to implement this chapter or attempts to obstruct the enforcement of this chapter. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$200. (V.A.C.S. Art. 1269m, Secs. 3, 4, 7, 25a, 27(a) (part).)

Sec. 143.007. REMOVAL OF COMMISSION MEMBER. (a) If at a meeting held for that purpose the governing body of the municipality finds that a commission member is guilty of misconduct in office, the governing body may remove the member. The member may request that the meeting be held as an open hearing in accordance with the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

(b) If a commission member is indicted or charged by information with a criminal offense involving moral turpitude, the member shall be automatically suspended from office until the disposition of the charge. Unless the member pleads guilty or is found to be guilty, the member shall resume office at the time of disposition of the charge.

(c) The governing body may appoint a substitute commission member during a period of suspension. If a member pleads guilty to or is found to be guilty of a criminal offense involving moral turpitude, the governing body shall appoint a replacement commission member to serve the remainder of the disqualified member's term of office. (V.A.C.S. Art. 1269m, Sec. 3A.)

Sec. 143.008. ADOPTION AND PUBLICATION OF RULES. (a) A commission shall adopt rules necessary for the proper conduct of commission business.

(b) The commission may not adopt a rule permitting the appointment or employment of a person who is:

- (1) without good moral character;
- (2) physically or mentally unfit; or
- (3) incompetent to discharge the duties of the appointment or employment.

(c) The commission shall adopt rules that prescribe cause for removal or suspension of a fire fighter or police officer. The rules must comply with the grounds for removal prescribed by Section 143.051.

(d) The commission shall publish each rule it adopts and each classification and seniority list for the fire and police departments. The rules and lists shall be made available on demand. A rule is considered to be adopted and sufficiently published if the commission adopts the rule by majority vote and causes the rule to be written, typewritten, or printed. Publication in a newspaper is not required and the governing body of the municipality is not required to act on the rule.

(e) A rule is not valid and binding on the commission until the commission:

- (1) mails a copy of the rule to the commissioner, if the municipality has an elected commissioner, and to department heads of the fire and police departments;

(2) posts a copy of the rule for a seven-day period at a conspicuous place in the central fire and police stations; and

(3) mails a copy of the rule to each branch fire station.

(f) The director shall keep copies of all rules for free distribution to members of the fire and police departments who request copies and for inspection by any interested person. (V.A.C.S. Art. 1269m, Secs. 5 (part), 23 (part).)

Sec. 143.009. COMMISSION INVESTIGATIONS AND INSPECTIONS. (a) The commission or a commission member designated by the commission may investigate and report on all matters relating to the enforcement and effect of this chapter and any rules adopted under this chapter and shall determine if the chapter and rules are being obeyed.

(b) During an investigation, the commission or the commission member may:

(1) administer oaths;

(2) issue subpoenas to compel the attendance of witnesses and the production of books, papers, documents, and accounts relating to the investigation; and

(3) cause the deposition of witnesses residing inside or outside the state.

(c) A deposition taken in connection with an investigation under this section must be taken in the manner prescribed by law for taking a similar deposition in a civil action in federal district court.

(d) An oath administered or a subpoena issued under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(e) A person who fails to respond to a subpoena issued under this section commits an offense punishable as prescribed by Section 143.016. (V.A.C.S. Art. 1269m, Sec. 5a.)

Sec. 143.010. COMMISSION APPEAL PROCEDURE. (a) Except as otherwise provided by this chapter, if a fire fighter or police officer wants to appeal to the commission from an action for which an appeal or review is provided by this chapter, the fire fighter or police officer need only file an appeal with the commission within 10 days after the date the action occurred.

(b) The appeal must include the basis for the appeal and a request for a commission hearing. The appeal must also contain a statement denying the truth of the charge as made, a statement taking exception to the legal sufficiency of the charge, a statement alleging that the recommended action does not fit the offense or alleged offense, or a combination of these statements.

(c) In each hearing, appeal, or review of any kind in which the commission performs an adjudicatory function, the affected fire fighter or police officer is entitled to be represented by counsel or a person the fire fighter or police officer chooses. Each commission proceeding shall be held in public.

(d) The commission may issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(e) The affected fire fighter or police officer may request the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the fire fighter or police officer considers pertinent to the case. The fire fighter or police officer must make the request before the 10th day before the date the commission hearing will be held. If the commission does not subpoena the material, the commission shall, before the third day before the date the hearing will be held, make a written report to the fire fighter or police officer stating the reason it will not subpoena the requested material. This report shall be read into the public record of the commission hearing.

(f) Witnesses may be placed under the rule at the commission hearing.

(g) The commission shall conduct the hearing fairly and impartially as prescribed by this chapter and shall render a just and fair decision. The commission may consider only the evidence submitted at the hearing.

(h) The commission shall maintain a permanent public record of each proceeding with copies available at cost. (V.A.C.S. Art. 1269m, Secs. 16a (part), 17.)

Sec. 143.011. DECISIONS AND RECORDS. (a) Each concurring commission member shall sign a decision issued by the commission.

(b) The commission shall keep records of each hearing or case that comes before the commission.

(c) Each rule, opinion, directive, decision, or order issued by the commission must be written and constitutes a public record that the commission shall retain on file. (V.A.C.S. Art. 1269m, Sec. 5b.)

Sec. 143.012. DIRECTOR. (a) On adoption of this chapter, the office of Director of Fire Fighters' and Police Officers' Civil Service is established in the municipality. The commission shall appoint the director. The director shall serve as secretary to the commission and perform work incidental to the civil service system as required by the commission. The commission may remove the director at any time.

(b) A person appointed as director must meet each requirement for appointment to the commission prescribed by Section 143.006(c), except that in a municipality with a population of less than 1.5 million, the person is not required to meet the three-year local residency requirement.

(c) A person appointed as director may be a commission member, a municipal employee, or some other person.

(d) The municipality's governing body shall determine the salary, if any, to be paid to the director.

(e) If, immediately before this chapter takes effect in a municipality, the municipality has a duly and legally constituted director of civil service, regardless of title, that director shall continue in office as the director established by this section and shall administer the civil service system as prescribed by this chapter. (V.A.C.S. Art. 1269m, Sec. 6.)

Sec. 143.013. APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD. (a) Unless elected, each department head is:

(1) appointed by the municipality's chief executive and confirmed by the municipality's governing body; or

(2) in a municipality having an elected fire or police commissioner, appointed by the fire or police commissioner in whose department the vacancy exists and confirmed by the municipality's governing body.

(b) A person appointed as head of a fire department must be eligible for certification by the Commission on Fire Protection Personnel Standards and Education at the intermediate level or its equivalent as determined by that commission and must have served as a fully paid fire fighter for at least five years. A person appointed as head of a police department must be eligible for certification by the Commission on Law Enforcement Officer Standards and Education at the intermediate level or its equivalent as determined by that commission and must have served as a bona fide law enforcement officer for at least five years.

(c) Except as provided by Subsection (d), if a person is removed from the position of department head, the person shall be reinstated in the department and placed in a position with a rank not lower than that held by the person immediately before appointment as department head. The person retains all rights of seniority in the department.

(d) If a person serving as department head is charged with an offense in violation of civil service rules and is dismissed from the civil service or discharged from his position as department head, the person has the same rights and privileges of a hearing before the commission and in the same manner and under the same conditions as a classified employee. If the commission finds that the charges are untrue or unfounded, the person shall immediately be restored to the same classification that the person held before appointment as department head. The person has all the rights and privileges of the prior position according to seniority and shall be paid his full salary for the time of suspension. (V.A.C.S. Art. 1269m, Secs. 8(d); 8A(g); 14, Subsec. D(7); 15.)

Sec. 143.014. APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If approved by the governing body of the municipality by resolution or ordinance, the head of a fire or police department in the municipality in which at least four

classifications exist below the classification of department head may appoint each person occupying an authorized position in the classification immediately below that of department head, as prescribed by this section. The classification immediately below that of department head may include a person who has a different title but has the same pay grade.

(c) In a police department, the total number of persons appointed to the classification immediately below that of department head may not exceed the total number of persons, plus one, serving in that classification on January 1, 1983. In a fire department in a municipality having fewer than 300 certified fire fighters, the department head may appoint not more than one person to the classification immediately below that of department head. If a municipality has 300 to 600 certified fire fighters, the department head may appoint two persons to the classification. If a municipality has more than 600 certified fire fighters, the department head may appoint three persons to the classification. This subsection does not apply to a municipality that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes) unless the municipality specifically adopts the appointment procedure prescribed by this subsection through the collective bargaining process.

(d) A person appointed to a position in the classification immediately below that of the head of the police department must:

- (1) be employed by the municipality's police department as a sworn police officer;
- (2) have at least two years' continuous service in that department as a sworn police officer; and
- (3) meet the requirements for appointment as head of a police department prescribed by Section 143.013(b).

(e) A person appointed to a position in the classification immediately below that of the head of the fire department must:

- (1) be employed by the municipality's fire department;
- (2) have a permanent classification in at least an officer level; and
- (3) meet the requirements for appointment as head of a fire department prescribed by Section 143.013(b).

(f) The department head shall make each appointment under this section within 90 days after the date a vacancy occurs in the position.

(g) A person appointed under this section serves at the pleasure of the department head. A person who is removed from the position by the department head shall be reinstated in the department and placed in the same classification, or its equivalent, that the person held before appointment. The person retains all rights of seniority in the department.

(h) If a person appointed under this section is charged with an offense in violation of civil service rules and indefinitely suspended by the department head, the person has the same rights and privileges of a hearing before the commission in the same manner and under the same conditions as a classified employee. If the commission, a hearing examiner, or a court of competent jurisdiction finds the charges to be untrue or unfounded, the person shall immediately be restored to the same classification, or its equivalent, that the person held before appointment. The person has all the rights and privileges of the prior position according to seniority, and shall be repaid for any lost wages.

(i) A person serving under permanent appointment in a position in the classification immediately below that of the department head on September 1, 1983, is not required to meet the requirements of this section or to be appointed or reappointed as a condition of tenure or continued employment. (V.A.C.S. Art. 1269m, Secs. 8A(b) (part), (c), (h), (i), (j), (k).)

Sec. 143.015. APPEAL OF COMMISSION DECISION TO DISTRICT COURT. (a) If a fire fighter or police officer is dissatisfied with any commission decision, the fire fighter or police officer may file a petition in district court asking that the decision be set aside. The petition must be filed within 10 days after the date the final commission decision:

- (1) is sent to the fire fighter or police officer by certified mail; or
- (2) is personally received by the fire fighter or police officer or by that person's designee.
- (b) An appeal under this section is by trial de novo. The district court may grant the appropriate legal or equitable relief necessary to carry out the purposes of this chapter. The relief may include reinstatement or promotion with back pay if an order of suspension, dismissal, or demotion is set aside.
- (c) The court may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.
- (d) If the court finds for the fire fighter or police officer, the court shall order the municipality to pay lost wages to the fire fighter or police officer. (V.A.C.S. Art. 1269m, Sec. 18 (part).)

Sec. 143.016. **PENALTY FOR VIOLATION OF CHAPTER.** (a) A fire fighter or police officer commits an offense if the person violates this chapter.

(b) An offense under this section or Section 143.009 is a misdemeanor punishable by a fine of not less than \$10 or more than \$100, confinement in the county jail for not more than 30 days, or both fine and confinement. (V.A.C.S. Art. 1269m, Sec. 27 (part).)

[Sections 143.017–143.020 reserved for expansion]

SUBCHAPTER B. CLASSIFICATION AND APPOINTMENT

Sec. 143.021. **CLASSIFICATION; EXAMINATION REQUIREMENT.** (a) The commission shall provide for the classification of all fire fighters and police officers. The municipality's governing body shall establish the classifications by ordinance. The governing body by ordinance shall prescribe the number of positions in each classification.

(b) Except for the department head and a person the department head appoints in accordance with Section 143.014 or 143.102, each fire fighter and police officer is classified as prescribed by this subchapter and has civil service protection. The failure of the governing body to establish a position by ordinance does not result in the loss of civil service benefits by a person entitled to civil service protection or appointed to the position in substantial compliance with this chapter.

(c) Except as provided by Sections 143.013, 143.014, and 143.102, an existing position or classification or a position or classification created in the future either by name or by increase in salary may be filled only from an eligibility list that results from an examination held in accordance with this chapter. (V.A.C.S. Art. 1269m, Secs. 8(a), (b) (part), (c); 8A(a), (b) (part), (f); 12(c) (part), (d); 14, Subsec. G.)

Sec. 143.022. **PHYSICAL REQUIREMENTS AND EXAMINATIONS.** (a) The commission shall set the age and physical requirements for applicants for beginning and promotional positions in accordance with this chapter. The requirements must be the same for all applicants.

(b) The commission shall require each applicant for a beginning or a promotional position to take an appropriate physical examination administered by a physician appointed by the commission. The municipality shall pay for the examination.

(c) If an applicant is rejected by the physician, the applicant may request another examination by a board of three physicians appointed by the commission. The applicant must pay for the board examination. The board's decision is final. (V.A.C.S. Art. 1269m, Sec. 9(d).)

Sec. 143.023. **ELIGIBILITY FOR BEGINNING POSITION.** (a) A person may not take an entrance examination for a beginning position in the fire or police department unless the person is at least 18 years of age.

(b) A person may not be certified as eligible for a beginning position in a fire department if the person is 36 years of age or older.

(c) A person who is 45 years of age or older may not be certified for a beginning position in a police department. A person who is 36 years of age or older and under 45 may not be certified as eligible for a beginning position in a police department unless the

person has at least five years' experience as a peace officer or at least five years of military experience.

(d) An applicant may not be certified as eligible for a beginning position with a fire department unless the applicant meets all legal requirements necessary to become eligible for future certification by the Commission on Fire Protection Personnel Standards and Education.

(e) An applicant may not be certified as eligible for a beginning position with a police department unless the applicant meets all legal requirements necessary to become eligible for future licensing by the Commission on Law Enforcement Officer Standards and Education.

(f) Each police officer and fire fighter affected by this chapter must be able to read and write English.

(g) In addition to meeting the requirements prescribed by this section, an applicant for a beginning position in a police department in a municipality with a population of 1.5 million or more must meet the requirements prescribed by Section 143.105. (V.A.C.S. Art. 1269m, Secs. 9(e) (as amended by Chs. 323 and 958, Acts 69th Leg., R.S., 1985); 9(e) (as amended by Ch. 910, Acts 69th Leg., R.S., 1985); 9(f) (as amended by Ch. 910, Acts 69th Leg., R.S., 1985); 9(g); 13(a) (part).)

Sec. 143.024. ENTRANCE EXAMINATION NOTICE. (a) Before the 10th day before the date an entrance examination is held, the commission shall cause a notice of the examination to be posted in plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The notice must show the position to be filled or for which the examination is to be held, and the date, time, and place of the examination.

(b) The notice required by Subsection (a) must also state the period during which the eligibility list created as a result of the examination will be effective. (V.A.C.S. Art. 1269m, Secs. 9(c) (part); 13(a) (part).)

Sec. 143.025. ENTRANCE EXAMINATIONS. (a) The commission shall provide for open, competitive, and free entrance examinations to provide eligibility lists for beginning positions in the fire and police departments. The examinations are open to each person who makes a proper application and meets the requirements prescribed by this chapter.

(b) An eligibility list for a beginning position in the fire or police department may be created only as a result of a competitive examination held in the presence of each applicant for the position. The examination must be based on the person's knowledge of and qualifications for fire fighting and work in the fire department or for police work and work in the police department and must inquire into the applicant's general education and mental ability. A person may not be appointed to the fire or police department except as a result of the examination.

(c) An applicant may not take an examination unless at least one other applicant taking the examination is present.

(d) Examinations for beginning positions in the fire department may be held at different locations if each applicant takes the same examination and is examined in the presence of other applicants.

(e) An additional five points shall be added to the examination score of an applicant who served in the United States armed forces and received an honorable discharge.

(f) An applicant may not take the examination for a particular eligibility list more than once.

(g) The commission shall keep each eligibility list for a beginning position in effect for a period of not less than six months or more than 12 months, unless the names of all applicants on the list have been referred to the appropriate department. The commission shall determine the length of the period. The commission shall give new examinations at times the commission considers necessary to provide required staffing for scheduled fire or police training academies. (V.A.C.S. Art. 1269m, Secs. 9(a), (b), (c) (part).)

Sec. 143.026. PROCEDURE FOR FILLING BEGINNING POSITIONS. (a) When a vacancy occurs in a beginning position in a fire or police department, the department head shall request in writing from the commission the names of suitable persons from the

eligibility list. The director shall certify to the municipality's chief executive the names of the three persons having the highest grades on the eligibility list.

(b) From the three names certified, the chief executive shall appoint the person having the highest grade unless there is a valid reason why the person having the second or third highest grade should be appointed.

(c) If the chief executive does not appoint the person having the highest grade, the chief executive shall clearly set forth in writing the good and sufficient reason why the person having the highest grade was not appointed.

(d) The reason required by Subsection (c) shall be filed with the commission and a copy provided to the person having the highest grade. If the chief executive appoints the person having the third highest grade, a copy of the report shall also be furnished to the person having the second highest grade. (V.A.C.S. Art. 1269m, Sec. 10.)

Sec. 143.027. PROBATIONARY PERIOD. (a) A person appointed to a beginning position in the fire or police department must serve a probationary period of one year beginning on that person's date of employment as a fire fighter, police officer, or academy trainee.

(b) During a fire fighter's or police officer's probationary period, the department head shall discharge the person and remove the person from the payroll if the person's appointment was not regular or was not made in accordance with this chapter or the commission rules.

(c) During a fire fighter's or police officer's probationary period, the person may not be prohibited from joining or required to join an employee organization. Joining or not joining an employee organization is not a ground for retaining or not retaining a fire fighter or police officer serving a probationary period.

(d) A fire fighter or police officer who was appointed in substantial compliance with this chapter and who serves the entire probationary period automatically becomes a full-fledged civil service employee and has full civil service protection. (V.A.C.S. Art. 1269m, Secs. 12(a), (c) (part); 12A.)

Sec. 143.028. ELIGIBILITY FOR PROMOTION. (a) Except as provided by Sections 143.013 and 143.102, a fire fighter is not eligible for promotion unless the person has served in that fire department in the next lower position or other positions specified by the commission for at least two years at any time before the date the promotional examination is held. A fire fighter is not eligible for promotion to the rank of captain or its equivalent unless the person has at least four years' actual service in that fire department.

(b) Except as provided by Sections 143.013 and 143.102, a police officer is not eligible for promotion unless the person has served in that police department in the next lower position or other positions specified by the commission for at least two years immediately before the date the promotional examination is held. A police officer is not eligible for promotion to the rank of captain or its equivalent unless the person has at least four years' actual service in that police department.

(c) If a person is recalled on active military duty for not more than 24 months, the two-year service requirements prescribed by Subsections (a) and (b) do not apply and the person is entitled to have time spent on active military duty considered as duty in the respective fire or police department. If the active military duty exceeds 12 months, the person on return must serve in the department for 90 days before the person is eligible to participate in a promotional examination. This time is considered necessary to bring the person up to date on equipment and techniques. (V.A.C.S. Art. 1269m, Sec. 14, Subsec. D(5).)

Sec. 143.029. PROMOTIONAL EXAMINATION NOTICE. (a) Before the 90th day before the date a promotional examination is held, the commission shall post a notice that lists the sources from which the examination questions will be taken.

(b) Before the 30th day before the date a promotional examination is held, the commission shall post a notice of the examination in plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The notice must show the position to be filled or for which the examination is to be held, and the date, time, and

place of the examination. The commission shall also furnish sufficient copies of the notice for posting in the stations or subdepartments in which the position will be filled.

(c) The notice required by Subsection (b) may also include the name of each source used for the examination, the number of questions taken from each source, and the chapter used in each source.

(d) In addition to the notice prescribed by this section, a municipality with a population of 1.5 million or more must post the notice prescribed by Section 143.107. (V.A.C.S. Art. 1269m, Secs. 13(a) (part); 14, Subsec. D(1)(a) (part).)

Sec. 143.030. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) Each promotional examination is open to each fire fighter who at any time has continuously held for at least two years a position in the classification that is immediately below, in salary, the classification for which the examination is to be held.

(c) If the department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each fire fighter who has continuously held for at least two years a position at the next lower pay grade, if it exists, in the classification for which the examination is to be held.

(d) If there are not enough fire fighters in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission may open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons with at least two years' experience in the second lower position, in salary, to the position for which the examination is to be held.

(e) If a fire fighter had previously terminated the fire fighter's employment with the department and is subsequently reemployed by the same department, the fire fighter must again meet the two-year service requirement for eligibility to take a promotional examination. In determining if a fire fighter has met the two-year service requirement, a fire department may not consider service in another fire department.

(f) This section does not prohibit lateral crossover between classes. (V.A.C.S. Art. 1269m, Sec. 14, Subsec. A(3).)

Sec. 143.031. ELIGIBILITY FOR POLICE DEPARTMENT PROMOTIONAL EXAMINATION. (a) Each promotional examination is open to each police officer who for at least two years immediately before the examination date has continuously held a position in the classification that is immediately below, in salary, the classification for which the examination is to be held.

(b) If the department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each police officer who has continuously held for at least two years immediately before the examination date a position at the next lower pay grade, if it exists, in the classification for which the examination is to be held.

(c) If there are not sufficient police officers in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission shall open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons in the second lower position, in salary, to the position for which the examination is to be held. (V.A.C.S. Art. 1269m, Sec. 14, Subsec. A(1).)

Sec. 143.032. PROMOTIONAL EXAMINATION PROCEDURE. (a) The commission shall adopt rules governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the fire and police departments. Unless a different procedure is adopted under an alternate promotional system as provided by Section 143.035, the examinations shall be held substantially as prescribed by this section.

(b) Each applicant shall be given an identical examination in the presence of the other applicants.

(c) The examination must be entirely in writing and may not in any part consist of an oral interview.

(d) The examination questions must test the knowledge of the applicants about information and facts and must be based on:

(1) the duties of the position for which the examination is held;

(2) material that is of reasonably current publication and that has been made reasonably available to each member of the fire or police department involved in the examination; and

(3) any study course given by the departmental schools of instruction.

(e) The examination questions must be taken from the sources posted as prescribed by Section 143.029(a). Fire fighters or police officers may suggest source materials for the examinations.

(f) The examination questions must be prepared and composed so that the grading of the examination can be promptly completed immediately after the examination is over.

(g) The director is responsible for the preparation and security of each promotional examination. The fairness of the competitive promotional examination is the responsibility of the commission, the director, and each municipal employee involved in the preparation or administration of the examination.

(h) A person commits an offense if the person knowingly or intentionally:

(1) reveals a part of a promotional examination to an unauthorized person; or

(2) receives from an authorized or unauthorized person a part of a promotional examination for unfair personal gain or advantage.

(i) An offense under Subsection (h) is a misdemeanor punishable by a fine of not less than \$1,000, confinement in the county jail for not more than one year, or both the fine and the confinement. (V.A.C.S. Art. 1269m, Secs. 14 (part); 14, Subsec. D(1)(a) (part), (b).)

Sec. 143.033. PROMOTIONAL EXAMINATION GRADES. (a) The grading of each promotional examination shall begin when one applicant completes the examination. As the applicants finish the examination, the examinations shall be graded at the examination location and in the presence of any applicant who wants to remain during the grading.

(b) Each police officer is entitled to receive one point for each year of seniority as a classified police officer in that department, with a maximum of 10 points. Each fire fighter is entitled to receive one point for each year of seniority in that department, with a maximum of 10 points.

(c) Unless a different procedure is adopted under an alternate promotional system as provided by Section 143.035, the grade that must be placed on the eligibility list for each police officer or fire fighter shall be computed by adding the applicant's points for seniority to the applicant's grade on the written examination. Each applicant's grade on the written examination is based on a maximum grade of 100 points and is determined entirely by the correctness of the applicant's answers to the questions. The passing score in a municipality with a population of 1.5 million or more is prescribed by Section 143.108. In a municipality with a population of less than 1.5 million, all applicants who receive a grade of at least 70 points or who are in the 30 percent of the test participants who receive the highest grades, whichever method produces the larger number, shall be determined to have passed the examination. If a tie score occurs, the commission shall determine a method to break the tie.

(d) Within 24 hours after a promotional examination is held, the commission shall post the individual raw test scores on a bulletin board located in the main lobby of the city hall. (V.A.C.S. Art. 1269m, Secs. 13(a) (part); 14, Subsecs. B, D(1)(a) (part), D(2) (part), D(3) (part).)

Sec. 143.034. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION. (a) On request, each fire fighter or police officer applicant for a promotional position is entitled to examine the person's promotional examination and answers, the examination grading, and the source material for the examination. If dissatisfied, the applicant may appeal, within five business days, to the commission for review in accordance with this

chapter. In computing this period, a Saturday, Sunday, or legal holiday is not considered a business day.

(b) The applicant may not remove the examination or copy a question used in the examination. (V.A.C.S. Art. 1269m, Sec. 14, Subsec. D(4).)

Sec. 143.035. ALTERNATE PROMOTIONAL SYSTEM IN POLICE DEPARTMENT.

(a) This section does not apply to a municipality that has a population of 1.5 million or more or that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

(b) On the recommendation of the head of the police department and a majority vote of the sworn police officers in the department, the commission may adopt an alternate promotional system to select persons to occupy nonentry level positions other than positions that are filled by appointment by the department head. The promotional system must comply with the requirements prescribed by this section.

(c) The commission shall order the director to conduct an election and to submit the revised promotional system either to all sworn police officers within the rank immediately below the classification for which the promotional examination is to be administered or to all sworn police officers in the department.

(d) The director shall hold the election on or after the 30th day after the date notice of the election is posted at the department. The election shall be conducted throughout each regular work shift at an accessible location within the department during a 24-hour period.

(e) The ballot shall contain the specific amendment to the promotional procedure. Each sworn police officer shall be given the opportunity to vote by secret ballot "for" or "against" the amendment.

(f) The revised promotional system must be approved by a majority vote of the sworn police officers voting. A defeated promotional system amendment may not be placed on a ballot for a vote by the sworn police officers for at least 12 months after the date the prior election was held, but this provision does not apply if the head of the department recommends a different proposal to the commission.

(g) The commission shall canvass the votes within 30 days after the date the election is held. An appeal alleging election irregularity must be filed with the commission within five working days after the date the election closes. If approved by the sworn police officers, the promotional system amendment becomes effective after all election disputes have been ruled on and the election votes have been canvassed by the commission.

(h) At any time after an alternate promotional system has been adopted under this section and has been in effect for at least 180 days, the department head may petition the commission to terminate the alternate system, and the commission shall terminate the alternate system.

(i) At any time after an alternate promotional system has been adopted under this section and has been in effect for at least 180 days, a petition signed by at least 35 percent of the sworn police officers may be submitted to the commission asking that the alternate promotional system be reconsidered. If a petition is submitted, the commission shall, within 60 days after the date the petition is filed, hold an election as prescribed by this section. If a majority of those voting vote to terminate, the commission shall terminate the alternate promotional system.

(j) If the alternate system is terminated, an additional list may not be created under the alternate system.

(k) A promotional list may not be created if an election under this section is pending. An existing eligibility list, whether created under the system prescribed by this chapter or created under an alternate system adopted under this section, may not be terminated before or extended beyond its expiration date. A person promoted under an alternate system has the same rights and the same status as a person promoted under this chapter even if the alternate system is later terminated. (V.A.C.S. Art. 1269m, Sec. 14, Subsec. D(6).)

Sec. 143.036. PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS. (a) When a vacancy occurs in a nonentry position that is not appointed by the department head as provided by Sections 143.014 and 143.102, the vacancy shall be filled as prescribed by this section and Section 143.108, as applicable.

(b) If an eligibility list for the position to be filled exists on the date the vacancy occurs, the commission, on request by the department head, shall certify to the department head the names of the three persons having the highest grades on that eligibility list. The commission shall certify the names within 10 days after the date the commission is notified of the vacancy. If fewer than three names remain on the eligibility list or if only one or two applicants passed the promotional examination, each name on the list must be submitted to the department head.

(c) In a municipality with a population of less than 1.5 million, the commission shall submit names from an existing eligibility list to the department head until the vacancy is filled or the list is exhausted.

(d) If an eligibility list does not exist on the date a vacancy occurs or a new position is created, the commission shall hold an examination to create a new eligibility list within 90 days after the date the vacancy occurs or a new position is created.

(e) If an eligibility list exists on the date a vacancy occurs, the department head shall fill the vacancy by permanent appointment from the eligibility list furnished by the commission within 60 days after the date the vacancy occurs. If an eligibility list does not exist, the department head shall fill the vacancy by permanent appointment from an eligibility list that the commission shall provide within 90 days after the date the vacancy occurs. This subsection does not apply in a municipality with a population of 1.5 million or more.

(f) Unless the department head has a valid reason for not appointing the person, the department head shall appoint the person having the highest grade on the eligibility list. If the department head has a valid reason for not appointing the person having the highest grade, the department head shall personally discuss the reason with the person being bypassed before appointing another person. The department head shall also file the reason in writing with the commission. On application of the bypassed person, the reason the department head did not appoint that person is subject to review by the commission.

(g) If a person is bypassed, the person's name is returned to its place on the eligibility list and shall be resubmitted to the department head if a vacancy occurs. If the department head refuses three times to appoint a person, files the reasons for the refusals in writing with the commission, and the commission does not set aside the refusals, the person's name shall be removed from the eligibility list.

(h) Each promotional eligibility list remains in existence for one year unless exhausted. At the expiration of the one-year period, the eligibility list expires and a new examination may be held. (V.A.C.S. Art. 1269m, Secs. 8A(e); 14, Subsecs. E, F.)

Sec. 143.037. RECORD OF CERTIFICATION AND APPOINTMENT. (a) When a person is certified and appointed to a position in the fire or police department, the director shall forward the appointed person's record to the proper department head. The director shall also forward a copy of the record to the chief executive and shall retain a copy in the civil service files.

(b) The record must contain:

- (1) the date notice of examination for the position was posted;
- (2) the date on which the appointed person took the examination;
- (3) the name of each person who conducted the examination;
- (4) the relative position of the appointed person on the eligibility list;
- (5) the date the appointed person took the physical examination, the name of the examining physician, and whether the person was accepted or rejected;
- (6) the date the request to fill the vacancy was made;
- (7) the date the appointed person was notified to report for duty; and

(8) the date the appointed person's pay is to start.

(c) If the director intentionally fails to comply with this section, the commission shall immediately remove the director from office.

(d) The director's failure to comply with this section does not affect the civil service status of an employee. (V.A.C.S. Art. 1269m, Sec. 11.)

Sec. 143.038. TEMPORARY DUTIES IN HIGHER CLASSIFICATION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The department head may designate a person from the next lower classification to temporarily fill a position in a higher classification. The designated person is entitled to the base salary of the higher position plus the person's own longevity or seniority pay, educational incentive pay, and certification pay during the time the person performs the duties.

(c) The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this chapter may not be construed as a promotion. (V.A.C.S. Art. 1269m, Sec. 8A(d) (part).)

[Sections 143.039–143.040 reserved for expansion]

SUBCHAPTER C. COMPENSATION

Sec. 143.041. SALARY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) Except as provided by Section 143.038, all fire fighters or police officers in the same classification are entitled to the same base salary.

(c) In addition to the base salary, each fire fighter or police officer is entitled to each of the following types of pay, if applicable:

- (1) longevity or seniority pay;
- (2) educational incentive pay as authorized by Section 143.044;
- (3) assignment pay as authorized by Sections 143.042 and 143.043; and
- (4) certification pay as authorized by Section 143.044. (V.A.C.S. Art. 1269m, Sec. 8A(d) (part).)

Sec. 143.042. ASSIGNMENT PAY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The governing body of a municipality may authorize assignment pay for fire fighters and police officers who perform specialized functions in their respective departments.

(c) The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire or police department.

(d) If the ordinance applies equally to each person who meets the criteria established by the ordinance, the ordinance may provide for payment to each fire fighter and police officer who meets training or education criteria for an assignment or the ordinance may set criteria that provide for payment only to a fire fighter or police officer in a special assignment.

(e) The head of the fire or police department is not eligible for the assignment pay authorized by this section. (V.A.C.S. Art. 1269m, Sec. 8D.)

Sec. 143.043. FIELD TRAINING OFFICER ASSIGNMENT PAY. (a) In this section, "field training officer" means a member of the police department who is assigned to and performs the duties and responsibilities of the field training officers program.

(b) The governing body of a municipality may authorize assignment pay for field training officers. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the police department.

(c) The department head is not eligible for the assignment pay authorized by this section. (V.A.C.S. Art. 1269m, Sec. 8C.)

Sec. 143.044. CERTIFICATION AND EDUCATIONAL INCENTIVE PAY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If each fire fighter or police officer in a municipality is afforded an opportunity to qualify for certification, the municipality's governing body may authorize certification pay to those fire fighters who meet the requirements for certification set by the Commission on Fire Protection Personnel Standards and Education or for those police officers who meet the requirements for certification set by the Commission on Law Enforcement Officer Standards and Education.

(c) If the criteria for educational incentive pay are clearly established, are in writing, and are applied equally to each fire fighter or police officer in a municipality who meets the criteria, the municipality's governing body may authorize educational incentive pay for each fire fighter or police officer who has successfully completed courses at an accredited college or university.

(d) The certification pay and educational incentive pay are in addition to a fire fighter's or police officer's regular pay. (V.A.C.S. Art. 1269m, Sec. 8A(1).)

Sec. 143.045. ACCUMULATION AND PAYMENT OF SICK LEAVE. (a) A permanent or temporary fire fighter or police officer is allowed sick leave with pay accumulated at the rate of 1- $\frac{1}{4}$ full working days for each full month employed in a calendar year, so as to total 15 working days to a person's credit each 12 months.

(b) A fire fighter or police officer may accumulate sick leave without limit and may use the leave if unable to work because of a bona fide illness. If an ill fire fighter or police officer exhausts the sick leave and can conclusively prove that the illness was incurred in the performance of duties, an extension of sick leave shall be granted.

(c) Except as otherwise provided by Section 143.116, a fire fighter or police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the person's salary for accumulated sick leave if the person has accumulated not more than 90 days of sick leave. If a fire fighter or police officer has accumulated more than 90 working days of sick leave, the person's employer may limit payment to the amount that the person would have received if the person had been allowed to use 90 days of accumulated sick leave during the last six months of employment. The lump-sum payment is computed by compensating the fire fighter or police officer for the accumulated time at the highest permanent pay classification for which the person was eligible during the last six months of employment. The fire fighter or police officer is paid for the same period for which the person would have been paid if the person had taken the sick leave but does not include additional holidays and any sick leave or vacation time that the person might have accrued during the 90 days.

(d) To facilitate the settlement of the accounts of deceased fire fighters and police officers, all unpaid compensation, including all accumulated sick leave, due at the time of death to an active fire fighter or police officer who dies as a result of a line-of-duty injury or illness, shall be paid to the persons in the first applicable category of the following prioritized list:

- (1) to the beneficiary or beneficiaries the fire fighter or police officer designated in writing to receive the compensation and filed with the commission before the person's death;
- (2) to the fire fighter's or police officer's widow or widower;
- (3) to the fire fighter's or police officer's child or children and to the descendants of a deceased child, by representation;
- (4) to the fire fighter's or police officer's parents or to their survivors; or
- (5) to the properly appointed legal representative of the fire fighter's or police officer's estate, or in the absence of a representative, to the person determined to be entitled to the payment under the state law of descent and distribution.

(e) Payment of compensation to a person in accordance with Subsection (d) is a bar to recovery by another person. (V.A.C.S. Art. 1269m, Sec. 26, Subsecs. (a), (b), (c), (d).)

Sec. 143.046. VACATIONS. (a) Each fire fighter or police officer is entitled to earn a minimum of 15 working days' vacation leave with pay in each year.

(b) In computing the length of time a fire fighter or police officer may be absent from work on vacation leave, only those calendar days during which the person would be required to work if not on vacation may be counted as vacation days.

(c) Unless approved by the municipality's governing body, a fire fighter or police officer may not accumulate vacation leave from year to year. (V.A.C.S. Art. 1269m, Sec. 26(a).)

[Sections 143.047–143.050 reserved for expansion]

SUBCHAPTER D. DISCIPLINARY ACTIONS

Sec. 143.051. CAUSE FOR REMOVAL OR SUSPENSION. A commission rule prescribing cause for removal or suspension of a fire fighter or police officer is not valid unless it involves one or more of the following grounds:

- (1) conviction of a felony or other crime involving moral turpitude;
- (2) violations of a municipal charter provision;
- (3) acts of incompetency;
- (4) neglect of duty;
- (5) discourtesy to the public or to a fellow employee while the fire fighter or police officer is in the line of duty;
- (6) acts showing lack of good moral character;
- (7) drinking intoxicants while on duty or intoxication while off duty;
- (8) conduct prejudicial to good order;
- (9) refusal or neglect to pay just debts;
- (10) absence without leave;
- (11) shirking duty or cowardice at fires, if applicable; or
- (12) violation of an applicable fire or police department rule or special order. (V.A.C.S. Art. 1269m, Sec. 5 (part).)

Sec. 143.052. DISCIPLINARY SUSPENSIONS. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The head of the fire or police department may suspend a fire fighter or police officer under the department head's supervision or jurisdiction for the violation of a civil service rule. The suspension may be for a reasonable period not to exceed 15 calendar days or for an indefinite period. An indefinite suspension is equivalent to dismissal from the department.

(c) If the department head suspends a fire fighter or police officer, the department head shall, within 120 hours after the hour of suspension, file a written statement with the commission giving the reasons for the suspension. The department head shall immediately deliver a copy of the statement in person to the suspended fire fighter or police officer.

(d) The copy of the written statement must inform the suspended fire fighter or police officer that if the person wants to appeal to the commission, the person must file a written appeal with the commission within 10 days after the date the person receives the copy of the statement.

(e) The written statement filed by the department head with the commission must point out each civil service rule alleged to have been violated by the suspended fire fighter or police officer and must describe the alleged acts of the person that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated.

(f) If the department head does not specifically point out in the written statement the act or acts of the fire fighter or police officer that allegedly violated the civil service rules, the commission shall promptly reinstate the person.

(g) If offered by the department head, the fire fighter or police officer may agree in writing to voluntarily accept, with no right of appeal, a suspension of 16 to 90 calendar days for the violation of a civil service rule. The fire fighter or police officer must accept the offer within five working days after the date the offer is made. If the person refuses the offer and wants to appeal to the commission, the person must file a written appeal with the commission within 15 days after the date the person receives the copy of the written statement of suspension.

(h) In the original written statement and charges and in any hearing conducted under this chapter, the department head may not complain of an act that occurred earlier than the 180th day preceding the date the department head suspends the fire fighter or police officer. (V.A.C.S. Art. 1269m, Sec. 16b(b) (part).)

Sec. 143.053. APPEAL OF DISCIPLINARY SUSPENSION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If a suspended fire fighter or police officer appeals the suspension to the commission, the commission shall hold a hearing and render a decision in writing within 30 days after the date it receives notice of appeal. The suspended person and the commission may agree to postpone the hearing for a definite period.

(c) In a hearing conducted under this section, the department head is restricted to the department head's original written statement and charges, which may not be amended.

(d) The commission may deliberate the decision in closed session but may not consider evidence that was not presented at the hearing. The commission shall vote in open session.

(e) In its decision, the commission shall state whether the suspended fire fighter or police officer is:

- (1) permanently dismissed from the fire or police department;
- (2) temporarily suspended from the department; or
- (3) restored to the person's former position or status in the department's classified service.

(f) If the commission finds that the period of disciplinary suspension should be reduced, the commission may order a reduction in the period of suspension. If the suspended fire fighter or police officer is restored to the position or class of service from which the person was suspended, the fire fighter or police officer is entitled to full compensation for the actual time lost as a result of the suspension at the rate of pay provided for the position or class of service from which the person was suspended.

(g) The commission may suspend or dismiss a fire fighter or police officer only for violation of civil service rules and only after a finding by the commission of the truth of specific charges against the fire fighter or police officer. (V.A.C.S. Art. 1269m, Sec. 16b(b) (part).)

Sec. 143.054. DEMOTIONS. (a) If the head of the fire or police department wants a fire fighter or police officer under his supervision or jurisdiction to be involuntarily demoted, the department head may recommend in writing to the commission that the commission demote the fire fighter or police officer.

(b) The department head must include in the recommendation for demotion the reasons the department head recommends the demotion and a request that the commission order the demotion. The department head must immediately furnish a copy of the recommendation in person to the affected fire fighter or police officer.

(c) The commission may refuse to grant the request for demotion. If the commission believes that probable cause exists for ordering the demotion, the commission shall give the fire fighter or police officer written notice to appear before the commission for a public hearing at a time and place specified in the notice. The commission shall give the notice before the 10th day before the date the hearing will be held.

(d) The fire fighter or police officer is entitled to a full and complete public hearing, and the commission may not demote a fire fighter or police officer without that public hearing.

(e) A voluntary demotion in which the fire fighter or police officer has accepted the terms of the demotion in writing is not subject to this section. (V.A.C.S. Art. 1269m, Sec. 19.)

Sec. 143.055. UNCOMPENSATED DUTY OF POLICE OFFICERS. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) In this section, "uncompensated duty" means days of police work without pay that are in addition to regular or normal work days.

(c) The head of the police department may assign a police officer under his jurisdiction or supervision to uncompensated duty. The department head may not impose uncompensated duty unless the police officer agrees to accept the duty. If the police officer agrees to accept uncompensated duty, the department head shall give the person a written statement that specifies the date or dates on which the person will perform uncompensated duty.

(d) Uncompensated duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated days may not exceed 15.

(e) A police officer may not earn or accrue any wage, salary, or benefit arising from length of service while the person is suspended or performing uncompensated duty. The days on which a police officer performs assigned uncompensated duty may not be taken into consideration in determining eligibility for a promotional examination. A disciplinary suspension does not constitute a break in a continuous position or in service in the department in determining eligibility for a promotional examination.

(f) Except as provided by this section, a police officer who performs assigned uncompensated duty retains all rights and privileges of the person's position in the police department and of the person's employment by the municipality. (V.A.C.S. Art. 1269m, Sec. 20.)

Sec. 143.056. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT. (a) If a fire fighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the department head may temporarily suspend the person with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony indictment or misdemeanor complaint.

(b) The department head shall notify the suspended fire fighter or police officer in writing that the person is being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

(c) If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the department head may, within 30 days after the date of final disposition of the indictment or complaint, bring a charge against the fire fighter or police officer for a violation of civil service rules.

(d) A fire fighter or police officer indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the department head with civil service violations directly related to the indictment or complaint may delay the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint.

(e) If the department head temporarily suspends a fire fighter or police officer under this section and the fire fighter or police officer is not found guilty of the indictment or complaint in a court of competent jurisdiction, the fire fighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.

(f) Acquittal or dismissal of an indictment or a complaint does not mean that a fire fighter or police officer has not violated civil service rules and does not negate the charges that may have been or may be brought against the fire fighter or police officer by the department head.

(g) Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or indefinite suspension.

(h) The department head may order an indefinite suspension based on an act classified as a felony or a Class A or B misdemeanor after the 180-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the person's conduct. If the department head intends to order an indefinite suspension after the 180-day period, the department head must file with the attorney general a statement describing the criminal investigation and its objectives within 180 days after the date the act complained of occurred. (V.A.C.S. Art. 1269m, Sec. 16d.)

Sec. 143.057. HEARING EXAMINERS. (a) In addition to the other notice requirements prescribed by this chapter, the letter of disciplinary action issued to a fire fighter or police officer must state that in an appeal of an indefinite suspension, a suspension, a promotional passover, or a recommended demotion, the appealing fire fighter or police officer may elect to appeal to an independent third party hearing examiner instead of to the commission. The letter must also state that if the fire fighter or police officer elects to appeal to a hearing examiner, the person waives all rights to appeal to a district court except as provided by Subsection (j).

(b) To exercise the choice of appealing to a hearing examiner, the appealing fire fighter or police officer must submit to the director a written request as part of the original notice of appeal required under this chapter stating the person's decision to appeal to an independent third party hearing examiner.

(c) The hearing examiner's decision is final and binding on all parties. If the fire fighter or police officer decides to appeal to an independent third party hearing examiner, the person automatically waives all rights to appeal to a district court except as provided by Subsection (j).

(d) If the appealing fire fighter or police officer chooses to appeal to a hearing examiner, the fire fighter or police officer and the department head, or their designees, shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed, the director shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The fire fighter or police officer and the department head, or their designees, may agree on one of the seven neutral arbitrators on the list. If they do not agree within five working days after the date they received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the hearing examiner. The parties or their designees shall agree on a date for the hearing.

(e) The appeal hearing shall begin as soon as the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing within 45 calendar days after the date of selection, the fire fighter or police officer may, within two days after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d).

(f) In each hearing conducted under this section, the hearing examiner has the same duties and powers as the commission, including the right to issue subpoenas.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall render a decision on the appeal within 10 days after the date the hearing ended.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to render a decision on the appeal within 30 days after the date the hearing ends or the briefs are filed. The hearing examiner's inability to

meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action, or the hearing examiner's final decision.

(i) The hearing examiner's fees and expenses are shared equally by the appealing fire fighter or police officer and by the department. The costs of a witness are paid by the party who calls the witness.

(j) A district court may hear an appeal of a hearing examiner's award only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the district court having jurisdiction in the municipality in which the fire or police department is located. (V.A.C.S. Art. 1269m, Sec. 16c.)

[Sections 143.058–143.070 reserved for expansion]

SUBCHAPTER E. LEAVES

Sec. 143.071. **LEAVES OF ABSENCE; RESTRICTION PROHIBITED.** (a) If a sufficient number of fire fighters or police officers are available to carry out the normal functions of the fire or police department, a fire fighter or police officer may not be refused a reasonable leave of absence without pay to attend a fire or police school, convention, or meeting if the purpose of the school, convention, or meeting is to secure a more efficient department and better working conditions for department personnel.

(b) A rule that affects a fire fighter's or police officer's constitutional right to appear before or to petition the legislature may not be adopted. (V.A.C.S. Art. 1269m, Sec. 22 (part).)

Sec. 143.072. **MILITARY LEAVE OF ABSENCE.** (a) On written application of a fire fighter or police officer, the commission shall grant the person a military leave of absence without pay to enable the person to enter a branch of the United States military service. The leave of absence may not exceed the period of compulsory military service or the basic minimum enlistment period for the branch of service the fire fighter or police officer enters.

(b) The commission shall grant to a fire fighter or police officer a leave of absence for initial training or annual duty in the military reserves or the national guard.

(c) While a fire fighter or police officer who received a military leave of absence serves in the military, the commission shall fill the person's position in the department in accordance with this chapter. The fire fighter or police officer who fills the position is subject to replacement by the person who received the military leave at the time the person returns to active duty in the department.

(d) On termination of active military service, a fire fighter or police officer who received a military leave of absence under this section is entitled to be reinstated to the position that the person held in the department at the time the leave of absence was granted if the person:

- (1) receives an honorable discharge;
- (2) remains physically and mentally fit to discharge the duties of that position; and
- (3) makes an application for reinstatement within 90 days after the date the person is discharged from military service.

(e) On reinstatement, the fire fighter or police officer shall receive full seniority credit for the time spent in the military service.

(f) If the reinstatement of a fire fighter or police officer who received a military leave of absence causes that person's replacement to be returned to a lower position in grade or compensation, the replaced person has a preferential right to a subsequent appointment or promotion to the same or a similar position from which the person was demoted. This preferential right has priority over an eligibility list and is subject to the replaced person remaining physically and mentally fit to discharge the duties of that position. (V.A.C.S. Art. 1269m, Sec. 22a.)

Sec. 143.073. **LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE.** (a) A municipality shall provide to a fire fighter or police officer a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the leave shall continue for at least one year.

(b) At the end of the one-year period, the municipality's governing body may extend the line of duty illness or injury leave at full or reduced pay. If the fire fighter's or police officer's salary is reduced below 60 percent of the person's regular monthly salary and the municipality has a fire fighter's or police officer's pension fund, the person may retire on pension until able to return to duty.

(c) If pension benefits are not available to a fire fighter or police officer who is temporarily disabled by a line of duty injury or illness and if the year at full pay and any extensions granted by the governing body have expired, the fire fighter or police officer may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

(d) If a fire fighter or police officer is temporarily disabled by an injury or illness that is not related to the person's line of duty, the person may use all sick leave, vacation time, and other accumulated time before the person is placed on temporary leave.

(e) After recovery from a temporary disability, a fire fighter or police officer shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another fire fighter or police officer may voluntarily do the work of an injured fire fighter or police officer until the person returns to duty. (V.A.C.S. Art. 1269m, Sec. 26, Subsecs. (e), (f), (g), (h).)

Sec. 143.074. **REAPPOINTMENT AFTER RECOVERY FROM DISABILITY.** With the commission's approval and if otherwise qualified, a fire fighter or police officer who has been certified by a physician selected by a fire fighters' or police officers' relief or retirement fund as having recovered from a disability for which the person has been receiving a monthly disability pension is eligible for reappointment to the classified position that the person held on the date the person qualified for the monthly disability pension. (V.A.C.S. Art. 1269m, Sec. 9(i).)

[Sections 143.075–143.080 reserved for expansion]

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Sec. 143.081. **DETERMINATION OF PHYSICAL FITNESS.** (a) If a question arises as to whether a fire fighter or police officer is sufficiently physically fit to continue the person's duties, the fire fighter or police officer shall submit to the commission a report from the person's personal physician.

(b) If the commission, the department head, or the fire fighter or police officer questions the physician's report, the commission shall appoint a physician to examine the fire fighter or police officer and to submit a report to the commission, the department head, and the person.

(c) If the appointed physician's report disagrees with the report of the fire fighter's or police officer's personal physician, the commission shall appoint a board of three physicians to examine the fire fighter or police officer. The board's findings as to the person's fitness for duty shall determine the issue.

(d) The fire fighter or police officer shall pay the cost of the services of the person's personal physician. The municipality shall pay all other costs. (V.A.C.S. Art. 1269m, Sec. 9(h).)

Sec. 143.082. **EFFICIENCY REPORTS.** (a) The commission may develop proper procedures and rules for semiannual efficiency reports and grades for each fire fighter or police officer.

(b) If the commission collects efficiency reports on fire fighters or police officers, the commission shall provide each person with a copy of that person's report.

(c) Within 10 days after the date a fire fighter or police officer receives the copy of the person's efficiency report, the person may make a statement in writing concerning the

efficiency report. The statement shall be placed in the person's personnel file with the efficiency report. (V.A.C.S. Art. 1269m, Sec. 14, Subsec. C.)

Sec. 143.083. EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS AND POLICE OFFICERS. (a) If a municipality is unable to recruit qualified fire fighters or police officers because of the maximum age limit prescribed by Section 143.023 and the municipality's governing body finds that this inability creates an emergency, the commission shall recommend to the governing body additional rules governing the temporary employment of persons who are 36 years of age or older.

(b) A person employed under this section:

- (1) is designated as a temporary employee;
- (2) is not eligible for pension benefits;
- (3) is not eligible for appointment or promotion if a permanent applicant or employee is available;
- (4) is not eligible to become a full-fledged civil service employee; and
- (5) must be dismissed before a permanent civil service employee may be dismissed under Section 143.085. (V.A.C.S. Art. 1269m, Sec. 28(a).)

Sec. 143.084. CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIRE FIGHTERS AND POLICE OFFICERS. (a) Each fire fighter or police officer who, since December 31, 1969, has been continuously employed as a temporary employee under the provision codified as Section 143.083 has the full status of a civil service employee with all the rights and privileges granted by Section 143.005.

(b) A fire fighter or police officer covered by Subsection (a) is eligible to participate in earned pension benefits. The person may buy back service credits in the pension fund in which the permanent fire fighters or police officers in the department have participated since that person's employment. The credits may be bought at a rate determined by the actuary of the affected pension fund. (V.A.C.S. Art. 1269m, Sec. 28(b).)

Sec. 143.085. FORCE REDUCTION AND REINSTATEMENT LIST. (a) If a municipality's governing body adopts an ordinance that vacates or abolishes a fire or police department position, the fire fighter or police officer who holds that position shall be demoted to the position immediately below the vacated or abolished position. If one or more positions of equal rank are vacated or abolished, the fire fighters or police officers who have the least seniority in a position shall be demoted to the position immediately below the vacated or abolished position. If a fire fighter or police officer is demoted under this subsection without charges being filed against the person for violation of civil service rules, the fire fighter or police officer shall be placed on a position reinstatement list in order of seniority. If the vacated or abolished position is filled or re-created within one year after the date it was vacated or abolished, the position must be filled from the reinstatement list. Appointments from the reinstatement list shall be made in order of seniority. A person who is not on the list may not be appointed to the position during the one-year period until the reinstatement list is exhausted.

(b) If a position in the lowest classification is abolished or vacated and a fire fighter or police officer must be dismissed from the department, the fire fighter or police officer with the least seniority shall be dismissed. If a fire fighter or police officer is dismissed under this subsection without charges being filed against the person for violation of civil service rules, the fire fighter or police officer shall be placed on a reinstatement list in order of seniority. Appointments from the reinstatement list shall be made in order of seniority. Until the reinstatement list is exhausted, a person may not be appointed from an eligibility list. When a person has been on a reinstatement list for three years, the person shall be dropped from the list but shall be restored to the list at the request of the commission. (V.A.C.S. Art. 1269m, Sec. 21.)

Sec. 143.086. POLITICAL ACTIVITIES. (a) While in uniform or on active duty, a fire fighter or police officer may not take an active part in another person's political campaign for an elective position of the municipality.

(b) For the purposes of this section, a person takes an active part in a political campaign if the person:

- (1) makes a political speech;
- (2) distributes a card or other political literature;
- (3) writes a letter;
- (4) signs a petition;
- (5) actively and openly solicits votes; or
- (6) makes public derogatory remarks about a candidate for an elective position of the municipality.

(c) A fire fighter or police officer may not be required to contribute to a political fund or to render a political service to a person or party. A fire fighter or police officer may not be removed, reduced in classification or salary, or otherwise prejudiced for refusing to contribute to a political fund or to render a political service.

(d) A municipal official who attempts to violate Subsection (c) violates this chapter.

(e) Except as expressly provided by this section, the commission or the municipality's governing body may not restrict a fire fighter's or police officer's right to engage in a political activity. (V.A.C.S. Art. 1269m, Sec. 22 (part).)

Sec. 143.087. **STRIKE PROHIBITION.** (a) A fire fighter or police officer may not engage in a strike against the governmental agency that employs the fire fighter or police officer.

(b) In addition to the penalty prescribed by Section 143.016, if a fire fighter or police officer is convicted of an offense for violating this section, the person shall be automatically released and discharged from the fire or police department. After the person is discharged from the department, the person may not receive any pay or compensation from public funds used to support the fire or police department. (V.A.C.S. Art. 1269m, Sec. 27 (part).)

Sec. 143.088. **UNLAWFUL RESIGNATION OR RETIREMENT.** (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) A person commits an offense if the person accepts money or anything of value from another person in return for retiring or resigning from the person's civil service position.

(c) A person commits an offense if the person gives money or anything of value to another person in return for the other person's retirement or resignation from the person's civil service position.

(d) An offense under this section is a Class A misdemeanor. (V.A.C.S. Art. 1269m, Sec. 14, Subsecs. D(8), (9).)

[Sections 143.089–143.100 reserved for expansion]

SUBCHAPTER G. PROVISIONS APPLICABLE TO MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE AND CERTAIN OTHER MUNICIPALITIES

Sec. 143.101. **SUBCHAPTER APPLICABLE PRIMARILY TO MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE; APPLICATION OF OTHER SUBCHAPTERS.** (a) Except as otherwise provided, this subchapter applies only to a municipality with a population of 1.5 million or more.

(b) Except as otherwise provided, the provisions of Subchapters A-F apply to each municipality covered under this subchapter. (New.)

Sec. 143.102. **APPOINTMENT OF ASSISTANT CHIEF.** (a) The head of the fire or police department may appoint a person to a command staff position at the rank of assistant chief as prescribed by this section.

(b) The heads of the fire and police departments shall establish required qualifying criteria for persons appointed to command staff positions at the rank of assistant chief in their respective departments. The required qualifying criteria must be approved by a vote of two-thirds of the municipality's governing body present and voting. The head of the police or fire department may not make an appointment until the required qualifying criteria are established and approved as prescribed by this subsection.

(c) To be eligible for appointment to a position at the rank of assistant chief of a police department, a person must:

- (1) be a member of the classified service;
- (2) have served for at least five years in the department as a sworn police officer; and
- (3) meet the additional qualifying criteria established and approved as prescribed by Subsection (b).

(d) To be eligible for appointment to a position at the rank of assistant chief of a fire department, a person must:

- (1) be a member of the classified service;
- (2) have served for at least five years in the department as a certified fire fighter; and
- (3) meet the additional qualifying criteria established and approved as prescribed by Subsection (b).

(e) The department head may remove without cause a person appointed under this section. If a person is removed without cause, the person shall be restored to that person's highest rank earned by competitive examination.

(f) If a person appointed under this section is temporarily or indefinitely suspended for cause from the appointed position, the suspension is subject to the procedures for disciplinary action prescribed by this chapter. If a person is indefinitely suspended for cause, the person does not have a right to reinstatement to the highest rank earned by competitive examination except to the extent that the indefinite suspension is reversed or modified by order of the commission or a hearing examiner.

(g) A person occupying a position in the rank of assistant chief of the fire or police department on September 1, 1985, may not be removed except for cause in accordance with the procedures for disciplinary action or demotion prescribed by this chapter.

(h) A person occupying a position in the rank of assistant chief of a fire or police department may voluntarily demote himself to the highest rank the person earned by competitive examination.

(i) A person may remove himself from consideration for appointment under this section.

(j) A person appointed under this section may take any promotional examination for which the person would have been eligible under this chapter.

(k) A person appointed under this section is subject to confirmation by the municipality's governing body. (V.A.C.S. Art. 1269m, Sec. 8(f).)

Sec. 143.103. SPECIALIZED POLICE DIVISIONS. (a) A peace officer employed by a municipal department in which the peace officer performs duties in a specialized police division, including a person employed as a park police officer, airport police officer, or municipal marshal, is entitled to civil service status under this chapter. The governing body of the municipality employing a peace officer in a specialized police division shall classify the officer in accordance with Section 143.021 and the duties performed by the peace officer.

(b) A peace officer who is employed in a specialized police division is eligible for promotion within the officer's respective class. A member of a particular class is not eligible for promotion to a position outside that class, and lateral crossover by promotion by a member of one class to another class is prohibited. If a member of one class wants to change classes, the member must qualify and enter the new class at the lowest entry level of that class. The head of the police department, assistant chiefs of police, and deputy chiefs of police, or their equivalent, regardless of name or title, may exercise the full sanctions, powers, and duties of their respective offices in the supervision, management, and control of the members of those classes.

(c) Each applicable provision of this chapter, including the provisions relating to eligibility lists, examinations, promotions, appointments, educational incentive pay, longevity or seniority pay, certification pay, assignment pay, salary, vacation leave, and

disciplinary appeals, applies to a peace officer employed by the municipality in a specialized police division as provided by this section. (V.A.C.S. Art. 1269m, Sec. 14B.)

Sec. 143.104. **EXAMINATION PROCEDURE.** The commission shall adopt rules to standardize the procedures for entrance and promotional examinations. The rules must provide:

- (1) that each applicant have adequate space in which to take the examination;
- (2) that each applicant be provided with a desk;
- (3) that the room in which the examination is held have a public address system; and
- (4) the maximum number of times an applicant may leave the room during the examination and the procedure each applicant must follow when leaving or entering the room during the examination. (V.A.C.S. Art. 1269m, Sec. 13(b).)

Sec. 143.105. **ELIGIBILITY FOR BEGINNING POSITION IN POLICE DEPARTMENT.** In addition to meeting the eligibility requirements prescribed by Section 143.023, to be certified as eligible for a beginning position with a police department, a person must:

- (1) be at least 21 years of age at the end of the probationary period;
- (2) have served in the United States armed forces and received an honorable discharge; or
- (3) have earned at least 60 hours' credit in any area of study at an accredited college or university. (V.A.C.S. Art. 1269m, Sec. 9(f) (as amended by Chs. 323 and 958, Acts 69th Leg., R. S., 1985).)

Sec. 143.106. **ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION.** (a) Each promotional examination is open to each fire fighter who at any time has continuously held for at least two years a position in the classification that is immediately below, in salary, the classification for which the examination is to be held.

(b) If the department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each fire fighter who has continuously held for at least two years a position at the next lower pay grade, if it exists, in the class for which the examination is to be held.

(c) If there are not enough fire fighters in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission may open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons with at least two years' experience in the second lower position, in salary, to the position for which the examination is to be held.

(d) This section does not prohibit lateral crossover between classes. (V.A.C.S. Art. 1269m, Sec. 14, Subsec. A(2).)

Sec. 143.107. **PROMOTIONAL EXAMINATION NOTICE.** Before the 30th day before the date a promotional examination is held, the municipality shall post a notice of the number of newly created positions. The notice must be posted in plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The municipality shall also distribute the notice to all stations and subdepartments. (V.A.C.S. Art. 1269m, Sec. 13(c).)

Sec. 143.108. **PROMOTIONAL EXAMINATION GRADES; PROMOTIONAL APPOINTMENTS.** (a) Each fire fighter or police officer applicant who receives a grade of at least 70 points on a promotional examination is considered to have passed that examination.

(b) If an eligibility list exists on the date a vacancy occurs, the vacancy shall be filled by permanent appointment from the eligibility list furnished by the commission within 60 days after the date the vacancy occurs. If an eligibility list does not exist, the vacancy shall be filled from an eligibility list that the commission shall provide within 90 days after the date the vacancy occurs. (V.A.C.S. Art. 1269m, Secs. 8(b) (part); 14, Subsecs. D(2) (part), (3) (part).)

Sec. 143.109. **CROSSOVER PROMOTIONS IN POLICE DEPARTMENT.** (a) In this section:

(1) "Communications class" includes each person who performs the technical operation of police radio communications.

(2) "Technical class" includes each person who performs criminal laboratory analysis and interpretations or the technical aspects of criminal identification and photography.

(b) Each person employed by the police department who is a member of the technical or communications class is eligible for a promotion within that class.

(c) A member of the technical, communications, or uniformed and detective class is not eligible for promotion to a position outside that class, and lateral crossover by promotion is prohibited. A person may change classes only by qualifying for and entering the new class at the lowest entry level of that class.

(d) The department head, assistant chiefs, and deputy chiefs, or their equivalent, regardless of name or title, may exercise the full sanctions, powers, and duties of their respective offices in the supervision, management, and control of the members of the technical, communications, and uniformed and detective classes.

(e) Each provision of this chapter relating to eligibility lists, examinations, appointments, and promotions applies to the appointment or promotion of members of the technical, communications, and uniformed and detective classes within the members' respective class. (V.A.C.S. Art. 1269m, Sec. 14A.)

Sec. 143.110. SALARY. (a) Except as provided by Section 143.111, all fire fighters or police officers in the same classification are entitled to the same base salary.

(b) In addition to the base salary, each fire fighter or police officer is entitled to each of the following types of pay, if applicable:

(1) longevity pay;

(2) seniority pay;

(3) educational incentive pay as authorized by Section 143.112; and

(4) assignment pay as authorized by Section 143.113. (V.A.C.S. Art. 1269m, Sec. 8(b) (part).)

Sec. 143.111. TEMPORARY DUTIES IN HIGHER CLASSIFICATION. (a) The department head may designate a person from the next lower classification to temporarily fill a position in a higher classification. The designated person is entitled to the base salary of the higher position plus the person's own longevity pay during the time the person performs the duties.

(b) The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this chapter may not be construed as a promotion of the person. (V.A.C.S. Art. 1269m, Sec. 8(b) (part).)

Sec. 143.112. EDUCATIONAL INCENTIVE PAY. (a) In this section:

(1) "Accredited college or university" means a college or university that is:

(A) accredited by a nationally recognized accrediting agency and by the state board of education in the state in which the college or university is located; and

(B) approved or certified by:

(i) the Texas Commission on Law Enforcement Officer Standards and Education as teaching the core curriculum or its equivalent in law enforcement; or

(ii) the Texas Commission on Fire Protection Personnel Standards and Education.

(2) "Core curriculum in law enforcement" means those courses in law enforcement education approved by the Coordinating Board, Texas College and University System, and the Texas Commission on Law Enforcement Officer Standards and Education.

(b) The governing body of a municipality may authorize educational incentive pay for:

(1) each fire fighter within each classification who has successfully completed courses at an accredited college or university that are applicable toward a degree in fire science; or

(2) each police officer within each classification who has successfully completed courses at an accredited college or university that are applicable toward a degree in law enforcement—police science and include the core curriculum in law enforcement.

(c) The educational incentive pay is in addition to the regular pay received by a fire fighter or police officer. (V.A.C.S. Art. 1269m, Sec. 8(e).)

Sec. 143.113. ASSIGNMENT PAY. (a) In this section:

(1) "Bilingual personnel" means a member of the fire or police department who in the performance of the member's duties is capable of effectively translating orally a language other than English into English, and when necessary, effectively translating the language into written English.

(2) "Emergency ambulance attendant" means a member of the fire department who provides emergency medical care and emergency transportation for members of the public.

(3) "Field training officer" means a member of the fire department who is assigned to and performs the duties and responsibilities of the field training officers program.

(4) "Hazardous materials response team personnel" means a member of the fire department who is assigned to a hazardous materials response team and stabilizes or participates in the stabilization of hazardous materials in an emergency.

(b) The municipality's governing body may authorize assignment pay for emergency ambulance attendants, field training officers, and hazardous materials response team personnel. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire department. The head of the fire department is not eligible for the assignment pay authorized by this subsection.

(c) The municipality's governing body may authorize assignment pay for bilingual personnel performing specialized functions as interpreters or translators in their respective departments. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire or police department. If the ordinance applies equally to each person who meets the criteria established by the ordinance, the ordinance may provide for payment to each fire fighter or police officer who meets testing or other certification criteria for an assignment, or the ordinance may set criteria that will determine the foreign languages in which a person must be fluent or other criteria for eligibility. The ordinance may provide for different rates of pay according to a person's capability and may allow more pay to those persons who are capable of translating orally and into written English. The heads of the fire and police departments are not eligible for the assignment pay authorized by this subsection. (V.A.C.S. Art. 1269m, Secs. 8B(a) (as amended by Chs. 386 and 958, Acts 69th Leg., R. S., 1985); (b)(1), (5), (6) (as added by Chs. 374, 386, and 958, Acts 69th Leg., R. S., 1985), (7); (d).)

Sec. 143.114. ASSIGNMENT PAY IN MUNICIPALITY WITH POPULATION OF 1.2 MILLION OR MORE. (a) In this section:

(1) "Bomb squad personnel" means a member of the police department who is assigned to the bomb squad and participates in the detection, handling, or disarming of explosive devices or materials.

(2) "Helicopter personnel" means a member of the police department who pilots a helicopter or rides as an observer in a helicopter.

(3) "Special weapons and tactics personnel" means a member of the police department who is assigned to and performs the duties and responsibilities of the special weapons and tactics squad.

(b) In a municipality with a population of 1.2 million or more, the municipality's governing body may authorize assignment pay for helicopter personnel, bomb squad personnel, and special weapons and tactics personnel. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the police department. The head of the police department is

not eligible for the assignment pay authorized by this section. (V.A.C.S. Art. 1269m, Secs. 8B(b)(2), (3), (4); (c).)

Sec. 143.115. PAYMENT OF ACCUMULATED VACATION LEAVE IN MUNICIPALITY WITH POPULATION OF 650,000 OR MORE. (a) This section applies only to a municipality with a population of 650,000 or more.

(b) A fire fighter or police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the person's salary for the period of the person's accumulated vacation leave up to a maximum of 60 working days.

(c) A fire fighter or police officer who leaves the classified service or dies as the result of a line of duty injury or illness or the beneficiaries of that fire fighter or police officer are entitled to the full amount of the fire fighter's or police officer's salary for the total accumulated vacation leave. (V.A.C.S. Art. 1269m, Sec. 26(b), Subsec. (b).)

Sec. 143.116. PAYMENT OF SICK LEAVE ON TERMINATION OF SERVICE. (a) A fire fighter or police officer who leaves the classified service for any reason or the beneficiaries of a fire fighter or police officer who dies as a result of a line of duty injury or illness are entitled to receive in a lump-sum payment the full amount of the fire fighter's or police officer's accumulated sick leave as provided by Subsections (b)-(e).

(b) A fire fighter or police officer hired before September 1, 1985, is entitled to have sick leave accumulated without limit. Sick leave accumulated before September 1, 1985, is valued at the amount of the fire fighter's or police officer's salary on August 31, 1985. Sick leave accumulated after September 1, 1985, is valued at the fire fighter's or police officer's average salary in the fiscal year in which the sick leave was accumulated.

(c) Each day or part of a day of sick leave used by a fire fighter or police officer is charged to that person's earliest acquired unused accumulated day of sick leave, in the same manner as is used in the "first in, first out" accounting principle.

(d) Each fire fighter or police officer hired before September 1, 1985, may select coverage under the municipal ordinance governing sick leave benefits and policy for the municipal employees who are not subject to this chapter. This option is a onetime only option that expires on December 31 of the year in which this section takes effect in that municipality.

(e) The sick leave of a fire fighter or police officer who becomes a member of the fire or police department on or after September 1, 1985, is covered by the municipal ordinance governing sick leave benefits and policy for the municipal employees who are not subject to this chapter.

(f) The municipality shall provide in its annual budget a sum reasonably calculated to provide funding for sick leave benefits for the fiscal year covered by that budget. (V.A.C.S. Art. 1269m, Sec. 26(b), Subsec. (a).)

Sec. 143.117. DISCIPLINARY SUSPENSIONS. (a) The head of the fire or police department may suspend a fire fighter or police officer under the department head's supervision or jurisdiction for disciplinary reasons for a reasonable period not to exceed 15 days.

(b) If the department head suspends a fire fighter or police officer, the department head shall, within 120 hours after the hour of suspension, file a written statement of action with the commission. If the department head fails to file the statement during the required time, the suspension is void and the fire fighter or police officer is entitled to the person's full pay.

(c) A fire fighter or police officer may appeal a disciplinary suspension as prescribed by Section 143.010. (V.A.C.S. Art. 1269m, Sec. 16b(a) (part).)

Sec. 143.118. APPEAL OF DISCIPLINARY SUSPENSION. (a) If a suspended fire fighter or police officer appeals a disciplinary suspension to the commission, the commission shall determine if just cause exists for the suspension.

(b) If the commission finds that the period of disciplinary suspension should be reduced, the commission may order a reduction in the period of suspension. The commission may reverse the department head's decision and instruct the department head

to immediately restore the fire fighter or police officer to the person's prior position and to repay the person for any lost wages.

(c) If the department head refuses to obey a commission order, the provisions of Section 143.120 relating to the department head's refusal apply. (V.A.C.S. Art. 1269m, Sec. 16b(a) (part).)

Sec. 143.119. INDEFINITE SUSPENSIONS. (a) The head of the fire or police department may indefinitely suspend a fire fighter or police officer under the department head's supervision or jurisdiction for the violation of a civil service rule.

(b) If the department head suspends a fire fighter or police officer, the department head shall, within 120 hours after the hour of suspension, file a written statement with the commission giving the reasons for the suspension. The department head shall immediately deliver a copy of the statement in person to the suspended fire fighter or police officer.

(c) The copy of the written statement must inform the suspended fire fighter or police officer that if the person wants to appeal to the commission, the person must file a written appeal with the commission within 10 days after the date the person receives the copy of the statement.

(d) The written statement filed by the department head with the commission must point out the civil service rule alleged to have been violated by the suspended fire fighter or police officer and must describe the alleged acts of the person that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated.

(e) If the department head does not specifically point out in the written statement the act or acts of the fire fighter or police officer that allegedly violated civil service rules, the commission shall promptly reinstate the person.

(f) If the department head offers a suspension of 16 to 90 calendar days for violation of civil service rules, the fire fighter or police officer may agree in writing to voluntarily accept the suspension, with no right of appeal. The fire fighter or police officer must accept the offer within five working days after the date the offer is made. If the person refuses the offer and wants to appeal to the commission, the person must file a written appeal with the commission within 15 days after the date the person receives the copy of the written statement of suspension.

(g) In the original written statement and charges and in any hearing conducted under this chapter, the department head may not complain of an act that did not occur within the six-month period preceding the date on which the department head suspends the fire fighter or police officer. (V.A.C.S. Art. 1269m, Secs. 16(a) (part), (b) (part); 16b(a) (part).)

Sec. 143.120. APPEAL OF INDEFINITE SUSPENSION. (a) If a suspended fire fighter or police officer appeals an indefinite suspension to the commission, the commission shall hold a hearing and render a decision in writing within 30 days after the date it receives notice of appeal.

(b) In a hearing conducted under this section, the department head is restricted to the department head's original written statement and charges, which may not be amended.

(c) In its decision, the commission shall state whether the suspended fire fighter or police officer is:

- (1) permanently dismissed from the fire or police department;
- (2) temporarily suspended from the department; or
- (3) restored to the person's former position or status in the department's classified service.

(d) If the suspended fire fighter or police officer is restored to the position or class of service from which the person was suspended, the department head shall immediately reinstate the person as ordered, and the person is entitled to full compensation at the rate of pay provided for the position or class of service from which the person was suspended for the actual time lost as a result of the suspension. If the department head fails to

reinstate the fire fighter or police officer, the person is entitled to the person's salary as if the person had been regularly reinstated.

(e) The commission may suspend or dismiss a fire fighter or police officer only for violation of civil service rules and only after a finding by the commission of the truth of specific charges against the fire fighter or police officer.

(f) If the department head intentionally refuses, for at least 10 days, to obey an order to reinstate a fire fighter or police officer, the municipality's chief executive or governing body shall discharge the department head from employment with the municipality.

(g) If a department head intentionally refuses to obey a lawful commission order of reinstatement, the commission may punish the department head for contempt. The commission has the same authority to punish for contempt as has a justice of the peace. (V.A.C.S. Art. 1269m, Secs. 16(a) (part), (b) (part), (c), (d), (e).)

Sec. 143.121. APPEAL TO DISTRICT COURT. Each appeal of an indefinite suspension to a district court shall be advanced on the district court docket and given a preference setting over all other cases. (V.A.C.S. Art. 1269m, Sec. 18 (part).)

Sec. 143.122. UNCOMPENSATED DUTY. (a) In this section, "uncompensated duty" means days of work without pay in a fire or police department and does not include a regular or normal work day.

(b) The head of the fire or police department may assign a fire fighter or police officer under the department head's jurisdiction or supervision to uncompensated duty. The department head may not impose uncompensated duty unless the fire fighter or police officer agrees to the duty.

(c) If the fire fighter or police officer agrees in writing to accept uncompensated duty, the department head shall give the person a written statement that specifies the date or dates on which the person will perform the duty. A fire fighter or police officer who agrees to accept the duty does not have a right to an administrative or judicial review.

(d) The uncompensated duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated duty days may not exceed 15.

(e) A fire fighter or police officer may not earn or accrue a benefit arising from length of service or any wage or salary while the person is suspended or performing uncompensated duty.

(f) A disciplinary suspension does not constitute a break in a continuous position or in service in the department in determining eligibility for a promotional examination.

(g) Except as provided by this section, a fire fighter or police officer performing assigned uncompensated duty retains all rights and privileges of the person's position in the department and of the person's employment by the municipality. (V.A.C.S. Art. 1269m, Sec. 20A (as added by Chs. 453 and 958, Acts 69th Leg., R.S., 1985).)

Sec. 143.123. INVESTIGATION OF FIRE FIGHTERS AND POLICE OFFICERS. (a) In this section:

(1) "Complainant" means a person claiming to be the victim of police misconduct.

(2) "Investigation" means an administrative investigation, conducted by the municipality, of alleged misconduct by a fire fighter or police officer that could result in punitive action against that person.

(3) "Investigator" means an agent or employee of the municipality who is assigned to conduct an investigation.

(4) "Punitive action" means a disciplinary suspension, indefinite suspension, demotion in rank, or any combination of those actions.

(b) An investigator may interrogate a fire fighter or police officer who is the subject of an investigation only during the fire fighter's or police officer's normally assigned working hours unless:

(1) the seriousness of the investigation, as determined by the fire fighter's or police officer's department head or the department head's designee, requires interrogation at another time; and

(2) the fire fighter or police officer is compensated for the interrogation time on an overtime basis.

(c) The department head may not consider work time missed from regular duties by a fire fighter or police officer due to participation in the conduct of an investigation in determining whether to impose a punitive action or in determining the severity of a punitive action.

(d) An investigator may not interrogate a fire fighter or police officer who is the subject of an investigation at that person's home without that person's permission.

(e) A fire fighter or police officer who is the subject of an investigation has the right to inquire and, on inquiry, to be informed of the identities of each investigator participating in an interrogation of the fire fighter or police officer.

(f) Before an investigator may interrogate a fire fighter or police officer who is the subject of an investigation, the investigator must inform the fire fighter or police officer in writing of the nature of the investigation and the name of each person who complained about the fire fighter or police officer concerning the matters under investigation. An investigator may not conduct an interrogation of a fire fighter or police officer based on a complaint by a person who is not a peace officer unless the person verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. An investigator may interrogate a fire fighter or police officer about events or conduct reported by a witness who is not a complainant without disclosing the name of the witness. An interrogation may be based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was anonymous. This subsection does not apply to an on-the-scene investigation that occurs immediately after an incident being investigated if the limitations of this subsection would unreasonably hinder the essential purpose of the investigation or interrogation. If the limitation would hinder the investigation or interrogation, the fire fighter or police officer under investigation must be furnished, as soon as practicable, a written statement of the nature of the investigation and the name of each complaining party.

(g) An interrogation session of a fire fighter or police officer who is the subject of an investigation may not be unreasonably long. In determining reasonableness, the gravity and complexity of the investigation must be considered. The investigators shall allow reasonable interruptions to permit the fire fighter or police officer to attend to personal physical necessities.

(h) An investigator may not threaten a fire fighter or police officer who is the subject of an investigation with punitive action during an interrogation. However, an investigator may inform a fire fighter or police officer that failure to truthfully answer reasonable questions directly related to the investigation or to fully cooperate in the conduct of the investigation may result in punitive action.

(i) If prior notification of intent to record an interrogation is given to the other party, either the investigator or the fire fighter or police officer who is the subject of an interrogation may record the interrogation.

(j) If an investigation does not result in punitive action against a fire fighter or police officer but does result in a reprimand recorded in writing or an adverse finding or determination regarding that person, the reprimand, finding, or determination may not be placed in that person's personnel file unless the fire fighter or police officer is first given an opportunity to read and sign the document. If the fire fighter or police officer refuses to sign the reprimand, finding, or determination, it may be placed in the personnel file with a notation that the person refused to sign it. A fire fighter or police officer may respond in writing to a reprimand, finding, or determination that is placed in the person's personnel file under this subsection by submitting a written response to the department head within 10 days after the date the fire fighter or police officer is asked to sign the document. The response shall be placed in the personnel file. A fire fighter or police officer who receives a punitive action and who elects not to appeal the action may file a written response as prescribed by this subsection within 10 days after the date the person is given written notice of the punitive action from the department head.

(k) The governing body of the municipality may, by ordinance, adopt the provisions of this section verbatim. The governing body may not amend or repeal the ordinance for at least two years after the date on which the ordinance is adopted.

(l) Except for Subsection (k), this section ceases to apply to a municipality on the date on which the ordinance prescribed by Subsection (k) is finally adopted in the municipality. (V.A.C.S. Art. 1269m, Secs. 30 (part), 30A.)

Sec. 143.124. POLYGRAPH EXAMINATIONS. (a) A fire fighter or police officer employed by the municipality may not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter or police officer unless:

(1) the complainant submits to and passes a polygraph examination; or

(2) the fire fighter or police officer is ordered to take an examination under Subsection (e).

(b) Subsection (a)(1) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(c) For the purposes of this section, a person passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the subject matter under investigation.

(d) The results of a polygraph examination that relate to the complaint under investigation are not admissible in a proceeding before the commission or a hearing examiner.

(e) The department head may order a fire fighter or police officer to submit to a polygraph examination if the department head considers the circumstances to be extraordinary and the department head believes that the integrity of a fire fighter or police officer or the department is in question. (V.A.C.S. Art. 1269m, Sec. 16e.)

Sec. 143.125. POLICE DEPARTMENT PROBATIONARY PERIOD AFTER REAPPOINTMENT IN MUNICIPALITY WITH POPULATION OF 1.2 MILLION OR MORE.

(a) This section applies only to a municipality with a population of 1.2 million or more.

(b) A person who ends service with the police department for any reason and is later reappointed to the department must serve a probationary period of six months from the date of reappointment.

(c) The reappointed officer is not entitled to full civil service protection until the officer has served the full probationary period.

(d) In determining classification, pay status, and eligibility for promotion, the probationary period is counted as if the reappointed officer were not on probation. (V.A.C.S. Art. 1269m, Sec. 12(b).)

Sec. 143.126. LEGISLATIVE LEAVE. (a) A fire fighter or police officer is entitled to legislative leave without pay to appear before or to petition the state legislature during a regular or special legislative session as prescribed by this section.

(b) To be eligible for legislative leave, a fire fighter or police officer must submit a written application to the municipality on or before the 60th day before the date of the convening of the legislative session that the fire fighter or police officer intends to appear before or to petition. The application must indicate the length of the requested leave and state that the fire fighter or police officer is willing to reimburse the municipality for any wages, pension, or other costs the municipality will incur as a result of the leave. The length of the requested leave may not exceed the length of the legislative session.

(c) Within 30 days after the date the municipality receives the application, the municipality shall notify the fire fighter or police officer in writing of the actual amount of money required to offset the costs the municipality will incur. The municipality may require the fire fighter or police officer to post the money before granting the leave.

(d) The municipality shall grant legislative leave to a fire fighter or police officer who submits an application as prescribed by this section and who complies with any requirement relating to payment of costs unless an emergency exists or unless granting the leave will result in an insufficient number of employees to carry out the normal functions of the fire or police department.

(e) If the head of the fire or police department determines that granting a legislative leave will result in an insufficient number of employees to carry out the normal functions of the department, another fire fighter or police officer may volunteer to work in the applicant's place on an exchange of time basis as long as no overtime results. If a fire fighter or police officer volunteers to work in the applicant's place and no overtime will result, the department head shall allow the volunteer to work for the applicant. If the volunteer work will solve the problem of having an insufficient number of employees, the municipality shall grant the legislative leave.

(f) Legislative leave may not be construed as a break in service for any purpose, including the determination of seniority, promotions, sick leave, vacations, or retirement. (V.A.C.S. Art. 1269m, Sec. 22b.)

Sec. 143.127. GRIEVANCE PROCEDURE. (a) A fire fighter or police officer may file a grievance as provided by this subchapter. The fire fighter or police officer may file a grievance that relates to the same aspects of the person's employment over which the civil service commission for the employees of the municipality who are not subject to this chapter would have lawful jurisdiction, except a grievance relating to:

- (1) a disciplinary action or other action or decision for which a hearing, review, or appeal is otherwise provided by this chapter; or
- (2) an allegation of discrimination based, in whole or in part, on race, color, religion, sex, or national origin.

(b) The director shall monitor and assist the operation of the grievance procedure. The director's duties include:

- (1) aiding the departments and departmental grievance counselors;
- (2) notifying the parties of meetings;
- (3) docketing cases before the grievance examiner; and
- (4) ensuring that the grievance procedure operates timely and effectively.

(c) The department head shall appoint from among the members of the department a grievance counselor whose duties include:

- (1) providing appropriate grievance forms to a fire fighter or police officer;
- (2) accepting, on behalf of the department head, a step I or II grievance;
- (3) assisting the fire fighter or police officer in handling the grievance;
- (4) forwarding a copy of a step I or II grievance form to the director and notifying the department head;
- (5) arranging a meeting between the fire fighter or police officer and that person's immediate supervisor as prescribed by Section 143.128(b);
- (6) arranging the meeting of the fire fighter or police officer and that person's department head or the department head's designated representative as prescribed by Section 143.129(b); and
- (7) performing duties that the department head may assign.

(d) The grievance procedure consists of four steps. (V.A.C.S. Art. 1269m, Secs. 29(a), (b), (c), (d)(1) (part).)

Sec. 143.128. STEP I GRIEVANCE PROCEDURE. (a) To begin a grievance action, a fire fighter or police officer must file a completed written step I grievance form with the person's department head or departmental grievance counselor within 30 days after the date the action or inaction for which the person feels aggrieved occurred. A step I grievance form may be obtained from the departmental grievance counselor. If the form is not timely filed, the grievance is waived.

(b) If the form is filed, the departmental grievance counselor shall arrange a meeting of the fire fighter or police officer, that person's immediate supervisor, and the person or persons against whom the grievance is lodged. If the grievance is lodged against the department head, the department head may send a representative.

(c) The fire fighter's or police officer's immediate supervisor shall fully, candidly, and openly discuss the grievance with the fire fighter or police officer in a sincere attempt to resolve it.

(d) Regardless of the outcome of the meeting, the fire fighter's or police officer's immediate supervisor shall provide a written response to the fire fighter or police officer, with a copy to the grievance counselor, within five working days after the date the meeting occurs. The response must include the supervisor's evaluation and proposed solution. The response shall either be personally delivered to the fire fighter or police officer or be mailed by certified mail, return receipt requested, to the last home address provided by that person.

(e) If the proposed solution is not acceptable, the fire fighter or police officer may file a step II grievance form with the department head or the departmental grievance counselor in accordance with Section 143.129. If the aggrieved fire fighter or police officer fails to timely file a step II grievance form, the solution is considered accepted. (V.A.C.S. Art. 1269m, Sec. 29(d)(1) (part).)

Sec. 143.129. STEP II GRIEVANCE PROCEDURE. (a) To continue the grievance procedure, the fire fighter or police officer must complete a step II grievance form and file it with the department head or the departmental grievance counselor within five days after the date the fire fighter or police officer receives the supervisor's response under Section 143.128.

(b) The departmental grievance counselor shall arrange a meeting of the fire fighter or police officer, that person's immediate supervisor, and the department head or the department head's representative who must have a rank of at least assistant chief or the equivalent. The meeting shall be held within five working days after the date the step II grievance form is filed under Subsection (a).

(c) Regardless of the outcome of the meeting, the department head or the department head's representative shall provide a written response to the fire fighter or police officer within 10 working days after the date the meeting occurs. The response shall either be personally delivered to the fire fighter or police officer or be mailed by certified mail, return receipt requested, to the last home address provided by that person.

(d) If the proposed solution is not acceptable, the fire fighter or police officer may file a step III grievance form with the director in accordance with Section 143.130. If the fire fighter or police officer fails to timely file a step III grievance form, the solution is considered accepted. (V.A.C.S. Art. 1269m, Sec. 29(d)(2).)

Sec. 143.130. STEP III GRIEVANCE PROCEDURE. (a) To continue the grievance procedure, the fire fighter or police officer must complete a step III grievance form and file it with the director within 10 days after the date the fire fighter or police officer receives the department head's response under Section 143.129.

(b) The director shall arrange a hearing of the fire fighter or police officer and a grievance examiner to be appointed by the commission under Section 143.132. The hearing shall be held within 15 working days after the date the step III grievance form is filed under Subsection (a).

(c) A hearing shall be conducted as an informal administrative procedure. Grievances arising out of the same or similar fact situations may be heard at the same hearing. A court reporter shall record the hearing. All witnesses shall be examined under oath. The fire fighter or police officer, that person's immediate supervisor, the department head, and each person specifically named in the grievance are parties to the hearing. The burden of proof is on the aggrieved fire fighter or police officer.

(d) The grievance examiner shall make written findings and a recommendation for solution of the grievance within 10 working days after the date the hearing ends. The findings and recommendation shall be given to the commission and copies mailed to the fire fighter or police officer by certified mail, return receipt requested, at the last home address provided by that person, and to the department head.

(e) If the proposed solution is not acceptable to either the fire fighter or police officer or the department head, either party may file a step IV grievance form with the director in accordance with Section 143.131. If the fire fighter or police officer or the department

head fails to timely file a step IV grievance form, the solution is considered accepted by that person. (V.A.C.S. Art. 1269m, Sec. 29(d)(3).)

Sec. 143.131. STEP IV GRIEVANCE PROCEDURE. (a) If the department head or the fire fighter or police officer rejects the proposed solution under Section 143.130, the department head or the fire fighter or police officer must complete a step IV grievance form and file it with the director within 10 days after the date the person receives the grievance examiner's recommendation.

(b) The commission shall review the grievance examiner's findings and recommendation and consider the transcript of the step III hearing at the commission's next regularly scheduled meeting or as soon as practicable.

(c) The commission shall base its decision solely on the transcript and demonstrative evidence offered and accepted at the step III hearing. The commission shall furnish a written copy of the order containing its decision to the fire fighter or police officer, the department head, and the grievance examiner. The copy to the fire fighter or police officer shall be mailed by certified mail, return receipt requested, to the last home address provided by that person. The commission decision is final. (V.A.C.S. Art. 1269m, Sec. 29(d)(4).)

Sec. 143.132. GRIEVANCE EXAMINER. (a) The commission shall appoint a grievance examiner by a majority vote. The commission may appoint more than one grievance examiner if necessary. The commission may appoint a different grievance examiner for each grievance. An examiner may not be affiliated with any other municipal department and is responsible only to the commission. The commission shall pay an examiner from a special budget established for this purpose, and the director shall provide an examiner sufficient office space and clerical support.

(b) The grievance examiner may:

(1) impose a reasonable limit on the time allowed each party and the number of witnesses to be heard;

(2) administer oaths;

(3) examine a witness under oath;

(4) subpoena and require the attendance or production of witnesses, documents, books, or other pertinent material; and

(5) accept affidavits instead of or in addition to live testimony. (V.A.C.S. Art. 1269m, Secs. 29(e), (f).)

Sec. 143.133. SPECIAL PROVISIONS FOR STEPS I AND II. (a) If the aggrieved fire fighter's or police officer's immediate supervisor is the department head, the steps prescribed by Sections 143.128 and 143.129 are combined. The department head shall meet with the aggrieved fire fighter or police officer and may not appoint a representative.

(b) A department head, with the approval of the commission, may change the procedure prescribed by Sections 143.128 and 143.129 to reflect a change in a department's chain of command. (V.A.C.S. Art. 1269m, Secs. 29(g), (i).)

Sec. 143.134. MISCELLANEOUS GRIEVANCE PROVISIONS. (a) A fire fighter or police officer may represent himself or obtain a representative at any time during the grievance procedure. The representative is not required to be an attorney. The municipality is not obligated to provide or pay the costs of providing representation.

(b) A fire fighter or police officer may take reasonable time off from a job assignment to file a grievance and attend a meeting or hearing. Time taken to pursue a grievance may not be charged against that person.

(c) The director shall provide a suitable notice explaining the grievance procedure prescribed by this subchapter and furnish copies to each department. Each department head shall cause the notices to be posted in a prominent place or places within the department work areas to give reasonable notice of the grievance procedure to each member of the department.

(d) At the request of the department head of a fire fighter or police officer who has filed a grievance under this subchapter, the municipality's legal department or the director shall assist in resolving the grievance.

(e) The director is the official final custodian of all records involving grievances. A depository for closed files regarding grievances shall be maintained in the civil service department. (V.A.C.S. Art. 1269m, Secs. 29(h), (k), (l), (m).)

[Chapters 144–150 reserved for expansion]

SUBTITLE B. COUNTY OFFICERS AND EMPLOYEES

CHAPTER 151. COUNTY EMPLOYMENT AUTHORITY

SUBCHAPTER A. GENERAL EMPLOYMENT AUTHORITY

- Sec. 151.001. OFFICER APPLIES TO COMMISSIONERS COURT FOR AUTHORITY TO APPOINT EMPLOYEES
 Sec. 151.002. COMMISSIONERS COURT ADOPTS ORDER AUTHORIZING APPOINTMENT OF EMPLOYEES
 Sec. 151.003. OFFICERS MAKE APPOINTMENTS
 Sec. 151.004. COMMISSIONERS COURT MAY NOT INFLUENCE APPOINTMENT

[Sections 151.005–151.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 151.901. EMPLOYMENT OF SECRETARIAL PERSONNEL
 Sec. 151.902. EMPLOYMENT CONTRACTS IN COUNTY WITH POPULATION OF 500,000 OR MORE
 Sec. 151.903. PERSONNEL AND PAYROLL RECORDS IN COUNTY WITH POPULATION OF 500,000 OR MORE

SUBTITLE B. COUNTY OFFICERS AND EMPLOYEES

CHAPTER 151. COUNTY EMPLOYMENT AUTHORITY

SUBCHAPTER A. GENERAL EMPLOYMENT AUTHORITY

Sec. 151.001. OFFICER APPLIES TO COMMISSIONERS COURT FOR AUTHORITY TO APPOINT EMPLOYEES. (a) A district, county, or precinct officer who requires the services of deputies, assistants, or clerks in the performance of the officer's duties shall apply to the commissioners court of the county in which the officer serves for the authority to appoint the employees. If the county has a population of more than 190,000, the officer shall apply for the authority to appoint any other kinds of employees.

(b) The application must be sworn and must state:

- (1) the number of employees required;
- (2) the title of the positions to be filled; and
- (3) the amounts to be paid the employees.

(c) If the application is made in a county with a population of more than 190,000, it must also describe the duties to be performed by the employees.

(d) The application must be accompanied by a statement of the probable receipts from fees, commissions, and compensation to be collected by the office during the fiscal year and the probable disbursements, including salaries and expenses, of the office.

(e) This section does not apply to a district attorney or criminal district attorney in a county with a population of more than 190,000. (V.A.C.S. Art. 3902 (part); Art. 3912e, Sec. 19(h) (part); Art. 3912e–13, Sec. 1 (part).)

Sec. 151.002. COMMISSIONERS COURT ADOPTS ORDER AUTHORIZING APPOINTMENT OF EMPLOYEES. After the receipt of an application under this subchapter, the commissioners court by order shall determine the number of employees that may be appointed and shall authorize their appointment. (V.A.C.S. Art. 3902 (part); Art. 3912e, Sec. 19(h) (part); Art. 3912e–13, Sec. 1 (part).)

Sec. 151.003. OFFICERS MAKE APPOINTMENTS. After the entry of the commissioners court's order, the officer applying for the employees may appoint them. (V.A.C.S. Art. 3902 (part); Art. 3912e, Sec. 19(h) (part); Art. 3912e-13, Sec. 1 (part).)

Sec. 151.004. COMMISSIONERS COURT MAY NOT INFLUENCE APPOINTMENT. The commissioners court or a member of the court may not attempt to influence the appointment of any person to an employee position authorized by the court under this subchapter. (V.A.C.S. Art. 3902 (part); Art. 3912e, Sec. 19(h) (part); Art. 3912e-13, Sec. 1 (part).)

[Sections 151.005-151.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 151.901. EMPLOYMENT OF SECRETARIAL PERSONNEL. The commissioners court of a county may enter an order to employ and provide compensation for secretarial personnel for a district, county, or precinct officer if the court determines that the financial condition of the county and the staff needs of the officer justify doing so. (V.A.C.S. Art. 3912L.)

Sec. 151.902. EMPLOYMENT CONTRACTS IN COUNTY WITH POPULATION OF 500,000 OR MORE. (a) In a county with a population of 500,000 or more, the employment of a person must be evidenced by written contract if the salary of the person is paid from funds of the county or of a flood control district located entirely in the county and is for employment as:

- (1) a deputy, an assistant, or any other employee of the county, or of the flood control district, who works under the commissioners court or its appointee; or
- (2) a deputy or an assistant appointed under Subchapter A by a county or district officer.

(b) The commissioners court shall prescribe the form of the contract that must be used.

(c) A contract under this section does not become effective until the employment is made in accordance with law and until the person employed agrees in writing to the terms of the contract. (V.A.C.S. Art. 2372h, Secs. 1 (part), 2 (part).)

Sec. 151.903. PERSONNEL AND PAYROLL RECORDS IN COUNTY WITH POPULATION OF 500,000 OR MORE. (a) In a county with a population of 500,000 or more, the officer employing a person shall, in addition to other requirements of law, file a personnel record about the person if the person is paid in whole or in part from funds of the county or of a flood control district located entirely in the county and the person is employed as:

- (1) a deputy, an assistant, or any other employee of the county, or of the flood control district, who works under the commissioners court or its appointee; or
- (2) a deputy or an assistant appointed under Subchapter A by a county or district officer.

(b) The personnel record shall be filed when the person is employed and must contain the following information: date of employment, rate of compensation, nature of employment, business or personal history, education, race, sex, age, place and date of birth, previous experience, and any other information essential to the keeping of proper personnel records.

(c) Each county officer or department head under whom the persons described by Subsection (a) are employed shall file a signed and sworn payroll at the close of the month, or more often if authorized or required by law. The payroll must state the name of each employee and show the employee's dates and hours of work, rate of compensation, and amount due for the current pay period. In the case of engineers and employees in the field engaged in road, flood control, or construction work, a signed report must accompany the payroll stating the nature, dates, and location of the work performed and containing any other information that may be needed for statistical or accounting purposes.

(d) The county auditor shall prescribe the forms and systems, including a system of personnel and equipment records, necessary to carry out this section. The county auditor may enforce any rules adopted under this section. If a person fails to file records or furnish essential information as required under this section, the county auditor may withhold the payment of salaries until the records are filed or information is furnished as required. In addition, the county auditor may assemble statistics and make recommendations that may be included in the county auditor's annual report required by law.

(e) A form adopted under this section is subject to the approval of the county auditor. (V.A.C.S. Art. 2372h, Secs. 1 (part), 3 (part).)

**CHAPTER 152. AMOUNT OF COMPENSATION, EXPENSES, AND ALLOWANCES
OF COUNTY OFFICERS AND EMPLOYEES**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.001. FUNDS FROM WHICH AMOUNTS ARE PAID

[Sections 152.002–152.010 reserved for expansion]

**SUBCHAPTER B. AMOUNT OF COMPENSATION, EXPENSES, AND
ALLOWANCES GENERALLY APPLICABLE**

Sec. 152.011. AMOUNT SET BY COMMISSIONERS COURT

Sec. 152.012. MINIMUM AMOUNT OF SALARY

Sec. 152.013. PROCEDURE FOR SETTING AMOUNTS FOR ELECTED OFFICERS

Sec. 152.014. SALARY GRIEVANCE COMMITTEE

**Sec. 152.015. SELECTION AND TERM OF PUBLIC MEMBERS ON GRIEVANCE
COMMITTEE**

**Sec. 152.016. FUNCTIONS OF GRIEVANCE COMMITTEE IN RELATION TO ELECT-
ED OFFICERS**

Sec. 152.017. EXCEPTIONS

Sec. 152.018. FORMER PROCEDURES NOT AFFECTED

[Sections 152.019–152.030 reserved for expansion]

**SUBCHAPTER C. AMOUNT OF COMPENSATION AND EXPENSES OF
COUNTY AUDITOR AND ASSISTANTS**

Sec. 152.031. COUNTY AUDITOR'S SALARY

Sec. 152.032. GENERAL LIMITATION ON COUNTY AUDITOR'S SALARY

**Sec. 152.033. LIMITATION ON COUNTY AUDITOR'S SALARY IN CERTAIN COUN-
TIES**

Sec. 152.034. SALARIES OF ASSISTANTS TO COUNTY AUDITOR

Sec. 152.035. REIMBURSEMENT FOR MILEAGE EXPENSES

[Sections 152.036–152.050 reserved for expansion]

**SUBCHAPTER D. WITHHOLDING COMPENSATION OF OFFICER WHO
ELECTS NOT TO BE PAID**

Sec. 152.051. DEFINITION

Sec. 152.052. DECISION NOT TO BE PAID

Sec. 152.053. RECORD OF NONPAYMENT

Sec. 152.054. RECOVERY OF PAYROLL TAXES

[Sections 152.055–152.070 reserved for expansion]

**SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO
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Sec. 152.071. CLASSIFICATION OF POSITIONS; SALARY SCHEDULE

Sec. 152.072. PETITION TO INCREASE SALARIES

Sec. 152.073. PENALTY

Sec. 152.074. LONGEVITY PAY FOR COMMISSIONED DEPUTIES

Sec. 152.075. COMPENSATION FOR RESERVE DEPUTY SHERIFFS

[Sections 152.076–152.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

**Sec. 152.901. TRAVEL EXPENSES FOR CERTAIN COUNTY AGENTS AND BOARD
MEMBERS**

Sec. 152.902. COMPENSATION FOR RESERVE DEPUTY CONSTABLES

**Sec. 152.903. COMPENSATION FOR INTERPRETERS EMPLOYED BY DISTRICT
COURTS**

**Sec. 152.904. COMPENSATION OF COUNTY JUDGE IN GREGG COUNTY, EL PASO
COUNTY, AND IN COUNTY WITH POPULATION OF
190,000–204,999**

CHAPTER 152. AMOUNT OF COMPENSATION, EXPENSES, AND ALLOWANCES
OF COUNTY OFFICERS AND EMPLOYEES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.001. FUNDS FROM WHICH AMOUNTS ARE PAID. Unless otherwise provided by law, the compensation, expenses, and allowances set under this code for a district, county, or precinct officer or employee may be paid from the general fund of the county in which the officer or employee serves or from any other funds that are available for that purpose. (New.)

[Sections 152.002–152.010 reserved for expansion]

SUBCHAPTER B. AMOUNT OF COMPENSATION, EXPENSES, AND
ALLOWANCES GENERALLY APPLICABLE

Sec. 152.011. AMOUNT SET BY COMMISSIONERS COURT. The commissioners court of a county shall set the amount of the compensation, office and travel expenses, and all other allowances for county and precinct officers and employees who are paid wholly from county funds. (V.A.C.S. Art. 3912k, Sec. 1 (part).)

Sec. 152.012. MINIMUM AMOUNT OF SALARY. The commissioners court may not set the salary of an officer or employee at an amount less than the amount of the salary in effect on January 1, 1972. The court may not set the salary of a justice of the peace at an amount less than the amount of the salary in effect on May 25, 1973. (V.A.C.S. Art. 3912k, Sec. 1 (part).)

Sec. 152.013. PROCEDURE FOR SETTING AMOUNTS FOR ELECTED OFFICERS. (a) Each year the commissioners court shall set the salary, expenses, and other allowances of elected county or precinct officers. The commissioners court shall set the items at a regular meeting of the court during the regular budget hearing and adoption proceedings.

(b) Before the 10th day before the date of the meeting, the commissioners court must publish in a newspaper of general circulation in the county a notice of:

- (1) any salaries, expenses, or allowances that are proposed to be increased; and
- (2) the amount of the proposed increases.

(c) Before filing the annual budget with the county clerk, the commissioners court shall give written notice to each elected county and precinct officer of the officer's salary and personal expenses to be included in the budget. (V.A.C.S. Art. 3912k, Secs. 2(a), (d); 6.)

Sec. 152.014. SALARY GRIEVANCE COMMITTEE. (a) In each county there is a salary grievance committee composed of the county judge and:

- (1) the sheriff, county tax assessor-collector, county treasurer, county clerk, district clerk, county attorney or criminal district attorney, and the number of public members necessary to provide nine voting members; or
- (2) nine public members, if the commissioners court votes on the second Monday in January each year to have nine public members.

(b) The county judge is chairman of the committee, but is not entitled to vote.

(c) Public members must be residents of the county. (V.A.C.S. Art. 3912k, Sec. 2(b).)

Sec. 152.015. SELECTION AND TERM OF PUBLIC MEMBERS ON GRIEVANCE COMMITTEE. (a) The public members of the salary grievance committee shall be selected at a meeting of the court on the second Monday of January each year.

(b) Before the meeting, the county clerk shall place on a separate slip the name of each person who served on a grand jury in the county during the preceding calendar year. At the meeting the slips shall be folded, placed in an appropriate container, and mixed. The county judge shall draw at random a number of slips equal to the number of public members needed for the committee and shall announce the names on the slips. A person whose name is drawn becomes a member of the committee on submitting written acceptance to the clerk. If a person refuses or is unable to serve, a replacement shall be selected at the next regular or called commissioners court meeting by random selection of

a slip from the remaining slips. This process shall be repeated until the required number of public members is selected.

(c) A public member serves until a successor is appointed the following January.

(d) A vacancy in a public member position shall be filled for the unexpired part of the term by random selection of a slip from the remaining slips at a meeting of the commissioners court. (V.A.C.S. Art. 3912k, Sec. 2(c).)

Sec. 152.016. FUNCTIONS OF GRIEVANCE COMMITTEE IN RELATION TO ELECTED OFFICERS. (a) An elected county or precinct officer who is aggrieved by the setting of the officer's salary or personal expenses may request a hearing before the salary grievance committee. The request must:

(1) be in writing;

(2) be delivered to the committee chairman within five days after the date the officer receives notice of the salary or personal expenses; and

(3) state the desired change in salary or personal expenses.

(b) The committee shall hold a public hearing within 10 days after the date the request is received. The chairman shall announce the time and place of the hearing.

(c) If, after the hearing, six or more of the members vote to recommend an increase in the officer's salary or personal expenses, the committee shall submit its recommendation to the commissioners court in writing. If six to eight members vote to recommend the increase, the commissioners court shall consider the recommendation at its next meeting. If nine members vote to recommend the increase and sign the recommendation, the commissioners court shall include the increase in the budget before the budget is filed and the increase takes effect in the next budget year.

(d) The committee's authority is limited to the consideration of increases in the salaries or personal expenses of county and precinct officers. The committee may not set policy of the county or add new items to a proposed county budget. (V.A.C.S. Art. 3912k, Secs. 2(e), (f).)

Sec. 152.017. EXCEPTIONS. This subchapter does not apply to:

(1) a judge of a court of record;

(2) a presiding judge of a commissioners court in a county with a population of 1.7 million or more;

(3) a district attorney paid wholly by state funds or the district attorney's assistants, investigators, or other employees;

(4) a county auditor, county purchasing agent, or the auditor's or purchasing agent's assistants or other employees; or

(5) a person employed under Section 10, Article 42.12, Code of Criminal Procedure. (V.A.C.S. Art. 3912k, Sec. 7.)

Sec. 152.018. FORMER PROCEDURES NOT AFFECTED. This subchapter does not affect a lawful procedure or delegation of authority established before January 1, 1972, for setting the salary of a county or precinct employee. (V.A.C.S. Art. 3912k, Sec. 4.)

[Sections 152.019–152.030 reserved for expansion]

SUBCHAPTER C. AMOUNT OF COMPENSATION AND EXPENSES OF COUNTY AUDITOR AND ASSISTANTS

Sec. 152.031. COUNTY AUDITOR'S SALARY. (a) The district judges appointing a county auditor shall set, by a majority vote, the annual salary of the auditor. The action of the district judges must be taken by order and must be recorded in the minutes of the district court.

(b) The district clerk shall certify the order to the commissioners court of the county for its observance. The commissioners court shall cause the order to be recorded in its minutes.

(c) The salary shall be paid to the county auditor by monthly payments. (V.A.C.S. Art. 1645, Secs. 1 (part), 2 (part); Art. 1646 (part).)

Sec. 152.032. GENERAL LIMITATION ON COUNTY AUDITOR'S SALARY. The salary of a county auditor may not exceed the amount allowed or paid the county tax assessor-collector. (V.A.C.S. Art. 1645, Sec. 1 (part); Art. 1646 (part).)

Sec. 152.033. LIMITATION ON COUNTY AUDITOR'S SALARY IN CERTAIN COUNTIES. (a) In Rusk County and Cameron County, the compensation of the county auditor may be set in any amount not to exceed the total compensation received from all sources by the county judge of the county in which the auditor serves.

(b) In a county with a population of 97,001 to 99,000, 111,001 to 121,000, or 128,001 to 128,400, the salary of the county auditor may be set in any amount not to exceed the annual salary of the county judge.

(c) For a county auditor appointed under Section 84.002(b)(2), the district judges may not set the salary of the auditor at an amount less than the amount allowed the auditor by Article 1645, Revised Statutes, as it existed on January 1, 1940. The district judges may not set the salary above this minimum amount unless the commissioners court of the county by order expressly approves the salary. The order must be recorded in the minutes of the commissioners court. A change in the salary of such a county auditor may take effect only at the beginning of a fiscal year. (V.A.C.S. Arts. 1645e-3, 1645e-4, 1646 (part).)

Sec. 152.034. SALARIES OF ASSISTANTS TO COUNTY AUDITOR. The salaries of assistants to the county auditor are set in the manner prescribed by Section 84.021. (New.)

Sec. 152.035. REIMBURSEMENT FOR MILEAGE EXPENSES. (a) The commissioners court of a county may reimburse the county auditor for expenses incurred in traveling to and from the county seat in the auditor's personal automobile to perform official duties and to attend conferences and seminars relating to the performance of official duties. However, the commissioners court may not reimburse the auditor for expenses incurred in traveling between the auditor's personal residence and county office or for expenses incurred in any other travel of a personal nature.

(b) The commissioners court of a county with a population of two million or more may reimburse an assistant of a county auditor for the assistant's expenses that are the same kind as those for which the county auditor may be reimbursed under Subsection (a).

(c) The commissioners court by order shall set the reimbursement at a reasonable rate.

(d) Reimbursement shall be paid monthly on submission of a sworn expense report by the person seeking the reimbursement. (V.A.C.S. Art. 1650a.)

[Sections 152.036–152.050 reserved for expansion]

SUBCHAPTER D. WITHHOLDING COMPENSATION OF OFFICER WHO ELECTS NOT TO BE PAID

Sec. 152.051. DEFINITION. In this subchapter, "county payroll officer" means the county auditor or other appropriate county officer who issues paychecks to county personnel. (V.A.C.S. Art. 3912m, Sec. 1.)

Sec. 152.052. DECISION NOT TO BE PAID. (a) If an elected county officer files an affidavit with the county clerk stating that the officer elects not to be paid for the officer's services, the county payroll officer may not issue a paycheck to the officer.

(b) After the affidavit is filed, the county payroll officer shall take measures to stop payment of a paycheck that was issued to the officer before the affidavit was filed and that has not been presented for payment. (V.A.C.S. Art. 3912m, Sec. 2.)

Sec. 152.053. RECORD OF NONPAYMENT. The county payroll officer shall make an entry in the payroll records of the county to show each pay period for which the officer is not paid. (V.A.C.S. Art. 3912m, Sec. 3.)

Sec. 152.054. RECOVERY OF PAYROLL TAXES. The county payroll officer shall seek to recover for the county any payroll taxes paid on the officer's compensation that is not paid. (V.A.C.S. Art. 3912m, Sec. 4.)

[Sections 152.055–152.070 reserved for expansion]

SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO
SHERIFF'S DEPARTMENT

Sec. 152.071. CLASSIFICATION OF POSITIONS; SALARY SCHEDULE. (a) In a county with a population of more than 75,000, the county government shall classify all positions in its sheriff's department and shall specify the duties and prescribe the salary for each classification.

(b) A member of the sheriff's department who is required to perform the duties of a particular classification is entitled to be paid the salary prescribed for that position during the time the member performs those duties. (V.A.C.S. Art. 1269q, Sec. 4 (part).)

Sec. 152.072. PETITION TO INCREASE SALARIES. (a) The qualified voters of a county with a population of more than 75,000 may petition the commissioners court of the county to increase the minimum salary of each member of the sheriff's department.

(b) A petition under this section must:

(1) state the amount of the proposed minimum salary for each rank, pay grade, or classification;

(2) state the effective date of the proposed salary increase;

(3) designate five qualified voters to act as a committee of petitioners authorized to negotiate with the commissioners court under Subsection (g); and

(4) be signed by a number of qualified voters equal to at least 25 percent of the number of voters who voted in the most recent countywide election for county officers.

(c) When a petition is filed under this section, the commissioners court shall:

(1) adopt the proposed minimum salary stated in the petition;

(2) offer an alternative minimum salary proposal under Subsection (g); or

(3) call an election on the proposed minimum salary as provided by this section.

(d) If the commissioners court chooses to call an election, the only issue that may be submitted is whether the proposed minimum salary should be adopted. The election shall be held on the first authorized uniform election date under Chapter 41, Election Code, that occurs after the 65th day after the date the petition was filed.

(e) The ballot for the election shall be printed to provide for voting for or against the proposition: "Adoption of the proposed minimum salaries of _____ for members of the Sheriff's Department." The proposed salary for each rank, pay grade, or classification as stated in the petition must be inserted in the blank space.

(f) If a majority of the votes cast at the election favor the adoption of the proposed minimum salary, the minimum salary shall take effect on or before the date specified in the petition as the effective date.

(g) If the commissioners court chooses to offer an alternative minimum salary proposal, the commissioners court shall confer with the committee of petitioners designated in the petition and offer the alternative salary proposal. If the committee accepts the alternative salary proposal, the commissioners court is not required to call an election.

(h) When an election has been held or an alternative salary proposal has been accepted under this section, a petition for another election under this section may not be filed until one year has elapsed after the date the election was held or the alternative salary proposal was accepted. (V.A.C.S. Art. 1269q, Sec. 2.)

Sec. 152.073. PENALTY. (a) A person who is a county official in a county with a population of more than 75,000 and who is in charge of the sheriff's department or is responsible for setting the compensation provided by Sections 152.071 and 152.072 commits an offense if the person violates Section 152.071 or 152.072.

(b) An offense under this section is punishable by a fine of not less than \$10 or more than \$100.

(c) Each day on which the county official causes or permits a violation of this section to occur is a separate offense. (V.A.C.S. Art. 1269q, Sec. 3 (part).)

Sec. 152.074. **LONGEVITY PAY FOR COMMISSIONED DEPUTIES.** (a) In a county with a population of 150,000 or more, the commissioners court shall provide longevity pay for each commissioned deputy of the sheriff's department of not less than \$5 a month for each year of service in the department, up to and including 25 years. Each commissioned deputy is entitled to the longevity pay in addition to the deputy's regular compensation.

(b) The commissioners court shall begin providing the longevity pay at the beginning of the first fiscal year after the date this section becomes applicable to the county. (V.A.C.S. Art. 3912f-7.)

Sec. 152.075. **COMPENSATION FOR RESERVE DEPUTY SHERIFFS.** (a) The commissioners court of a county may compensate a reserve deputy sheriff as provided by law for the compensation of a deputy sheriff.

(b) The commissioners court may reimburse a reserve deputy sheriff for reasonable and necessary expenses incurred in the performance of official duties. (V.A.C.S. Art. 6869.1, Sec. 1(d) (part).)

[Sections 152.076–152.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 152.901. **TRAVEL EXPENSES FOR CERTAIN COUNTY AGENTS AND BOARD MEMBERS.** (a) The commissioners court of a county may authorize the payment of reasonable travel expenses incurred by a person who:

(1) is an agent of the county, or is a board or committee member appointed by the commissioners court; and

(2) is not a county or precinct officer or employee whose travel expenses may be set under Section 152.011.

(b) The travel expenses must be incurred by the person while performing county business authorized by the commissioners court. (V.A.C.S. Art. 2372h-5.)

Sec. 152.902. **COMPENSATION FOR RESERVE DEPUTY CONSTABLES.** (a) The commissioners court of a county may compensate a reserve deputy constable as provided by law for the compensation of a deputy constable.

(b) The commissioners court may reimburse a reserve deputy constable for reasonable and necessary expenses incurred in the performance of official duties. (V.A.C.S. Art. 6869.1, Sec. 1(d) (part).)

Sec. 152.903. **COMPENSATION FOR INTERPRETERS EMPLOYED BY DISTRICT COURTS.** (a) Except as provided by Subsection (d), the commissioners court of a county may set the compensation of interpreters employed by the district courts in the county.

(b) The salary of an interpreter shall be paid on warrants issued by the district court or the clerk of the court in favor of the interpreter.

(c) The salary of an interpreter appointed under Subchapter B, Chapter 21, Civil Practice and Remedies Code, is payable in equal monthly payments.

(d) This section does not apply to interpreters for deaf or deaf-mute persons appointed under Subchapter A, Chapter 21, Civil Practice and Remedies Code, or Article 38.31, Code of Criminal Procedure. (V.A.C.S. Art. 2372; Art. 3737d-1, Sec. 1.)

Sec. 152.904. **COMPENSATION OF COUNTY JUDGE IN GREGG COUNTY, EL PASO COUNTY, AND IN COUNTY WITH POPULATION OF 190,000–204,999.** (a) The county judge of Gregg County is entitled to receive an annual salary set by the commissioners court at an amount that does not exceed 90 percent of the total annual salary paid to any district judge in the county.

(b) The county judge of El Paso County is entitled to receive an annual salary in an amount not to exceed 90 percent of the total annual salary, including supplements, paid to any district judge in the county.

(c) The commissioners court of a county with a population of 190,000 to 204,999 shall set the annual salary of the county judge at an amount equal to or greater than 90 percent of the salary, including supplements, of any district judge in Galveston County. However, the salary may not be set at an amount less than the salary paid the county

judge on May 2, 1962. (V.A.C.S. Art. 1970-141.2, Sec. 5(b) (part); Art. 1970-375, Sec. 5(f) (part); Art. 3883i, Sec. 4(b).)

CHAPTER 153. COMPENSATION OF COUNTY OFFICERS ON FEE BASIS

Sec. 153.001. COUNTY TREASURER'S COMMISSION FOR RECEIVING OR PAYING OUT MONEY

Sec. 153.002. COUNTY CLERK'S FEE FOR KEEPING LEDGER AND MAKING STATEMENTS

Sec. 153.003. MONTHLY STATEMENT OF EXPENSES OF OFFICERS

CHAPTER 153. COMPENSATION OF COUNTY OFFICERS ON FEE BASIS

Sec. 153.001. COUNTY TREASURER'S COMMISSION FOR RECEIVING OR PAYING OUT MONEY. (a) In a county in which the county treasurer is compensated on a fee basis, the treasurer is entitled to the following commissions for receiving and paying out money for the county:

(1) for money other than school funds, a percentage set by order of the commissioners court not to exceed 2-½ percent of the money received and a percentage set by order of the court not to exceed 2-½ percent of the money paid out; and

(2) for school funds, one-half percent of the money received and one-half percent of the money paid out.

(b) A commission earned under Subsection (a)(2) is payable from the available school fund of the county.

(c) A county treasurer may not receive a commission under this section for money received from the treasurer's predecessor or money paid to the treasurer's successor. A county treasurer may not receive a commission under Subsection (a)(2) for transferring money. (V.A.C.S. Arts. 3941, 3942.)

Sec. 153.002. COUNTY CLERK'S FEE FOR KEEPING LEDGER AND MAKING STATEMENTS. In a county that does not have the office of county auditor and in which the county clerk is compensated on a fee basis, the clerk is entitled to annual compensation for keeping the county finance ledger and for making the statements required by Section 114.021. The compensation is in an amount that equals \$5 for each \$1,000 tax assessed and due to the county, but the amount may not be less than \$100 or more than \$250. Compensation under this section is paid on the order of the commissioners court. (V.A.C.S. Art. 1644.)

Sec. 153.003. MONTHLY STATEMENT OF EXPENSES OF OFFICERS. (a) At the end of each month, a county officer who is compensated on a fee basis shall prepare an itemized and sworn statement of the actual and necessary expenses incurred by the officer in the conduct of the office. The statement shall be made a part of the fees statement required by Section 114.041 and must contain:

(1) the name of the case, if any, in connection with which an expense is incurred; and

(2) the name and position of, and the amount of the salary actually paid to, each assistant or deputy of the officer.

(b) For the purposes of this section, actual and necessary expenses include expenses for:

(1) travel, stationery, stamps, and telephone service; and

(2) premiums on officials' bonds, including surety bonds for deputies, and premiums on fire, burglary, theft, and robbery insurance to protect public funds.

(c) The salaries paid to the officer's assistants, deputies, and clerks and the incurred expenses shall be paid from fees earned by the officer. (V.A.C.S. Art. 3899, Sec. (a) (part).)

CHAPTER 154. COMPENSATION OF DISTRICT, COUNTY, AND PRECINCT
OFFICERS ON SALARY BASIS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 154.001. DEFINITION
- Sec. 154.002. SALARY PAID IN LIEU OF FEES AND COMMISSIONS
- Sec. 154.003. COLLECTION AND DISPOSITION OF FEES AND COMMISSIONS OF SALARIED OFFICER
- Sec. 154.004. STATE AND COUNTY PROHIBITED FROM PAYING FEES OR COMMISSIONS TO SALARIED OFFICER
- Sec. 154.005. FEES AND COMMISSIONS CERTAIN SALARIED OFFICERS MAY RECEIVE IN ADDITION TO SALARY
- Sec. 154.006. INSUFFICIENT SALARY FUND SUPPLEMENTED BY TRANSFER FROM GENERAL FUND
- Sec. 154.007. USE OF GENERAL FUND INSTEAD OF SALARY FUND
- Sec. 154.008. LEGISLATIVE APPROPRIATION FOR OFFICERS COMPENSATED ON SALARY BASIS
- Sec. 154.009. EFFECT OF FAILURE TO COLLECT FEE OR COMMISSION

[Sections 154.010–154.020 reserved for expansion]

SUBCHAPTER B. PROVISIONS APPLICABLE IN COUNTY WITH
POPULATION OF 190,000 OR LESS

- Sec. 154.021. COUNTIES COVERED BY SUBCHAPTER
- Sec. 154.022. OPTION TO PAY COMPENSATION ON FEE BASIS OR SALARY BASIS IN COUNTY WITH POPULATION OF LESS THAN 20,000
- Sec. 154.023. SALARY FUND
- Sec. 154.024. MONTHLY REPORT OF EXPENSES OF OFFICERS
- Sec. 154.025. DISBURSEMENTS TO PERSON WITH OUTSTANDING DEBT PROHIBITED
- Sec. 154.026. TRANSFER OF SALARY FUND SURPLUS TO GENERAL FUND

[Sections 154.027–154.040 reserved for expansion]

SUBCHAPTER C. PROVISIONS APPLICABLE IN COUNTY WITH
POPULATION OF MORE THAN 190,000

- Sec. 154.041. COUNTIES COVERED BY SUBCHAPTER
- Sec. 154.042. SALARY FUND
- Sec. 154.043. PROCEDURES REGARDING PAYMENT OF EMPLOYEE SALARIES
- Sec. 154.044. MONTHLY REPORT OF FEES, COMMISSIONS, AND EXPENSES OF OFFICERS
- Sec. 154.045. DISBURSEMENTS TO PERSON WITH OUTSTANDING DEBT PROHIBITED
- Sec. 154.046. TRANSFER OF SALARY FUND SURPLUS TO GENERAL FUND

CHAPTER 154. COMPENSATION OF DISTRICT, COUNTY, AND PRECINCT
OFFICERS ON SALARY BASIS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 154.001. DEFINITION. In this chapter, “precinct officer” means a justice of the peace or a constable. (V.A.C.S. Art. 3912e, Secs. 17(a) (part), 19(c) (part); Art. 3912e–2 (part).)

Sec. 154.002. SALARY PAID IN LIEU OF FEES AND COMMISSIONS. A district, county, or precinct officer who is paid on a salary basis receives the salary instead of all fees, commissions, and other compensation the officer would otherwise be authorized to keep, except as otherwise provided by this subchapter. (V.A.C.S. Art. 3912e, Sec. 3 (part).)

Sec. 154.003. COLLECTION AND DISPOSITION OF FEES AND COMMISSIONS OF SALARIED OFFICER. A district, county, or precinct officer who is paid an annual salary shall charge and collect in the manner authorized by law all fees, commissions, and other compensation permitted for official services performed by the officer. The officer shall dispose of the collected money as provided by Subchapter B, Chapter 113. (V.A.C.S. Art. 3898 (part); Art. 3912e, Sec. 5 (part).)

Sec. 154.004. STATE AND COUNTY PROHIBITED FROM PAYING FEES OR COMMISSIONS TO SALARIED OFFICER. (a) The state may not pay a district officer a fee or commission for the performance of a service by the officer.

(b) If a county officer is paid an annual salary, the state or any county may not pay a fee or commission to the officer for the performance of a service by the officer.

(c) The state or any county may not pay a fee or commission to a precinct officer for the performance of a service by the officer.

(d) The prohibitions established by this section do not affect:

(1) fees and commissions the county tax assessor-collector is authorized by law to collect;

(2) the payment of costs in a civil case or eminent domain proceeding by the state; or

(3) the payment of fees and commissions by the state or a county for services performed by county officers relating to the acquisition of rights-of-way for public roads and highways. (V.A.C.S. Art. 3912e, Secs. 1, 3 (part).)

Sec. 154.005. FEES AND COMMISSIONS CERTAIN SALARIED OFFICERS MAY RECEIVE IN ADDITION TO SALARY. (a) A justice of the peace may receive, in addition to a salary, all fees, commissions, or payments for performing marriage ceremonies, for acting as registrar for the Bureau of Vital Statistics, and for acting as ex officio notary public.

(b) A county judge may receive, in addition to a salary, all fees, commissions, or payments for performing marriage ceremonies.

(c) A sheriff or constable may receive, in addition to a salary, any reward for the apprehension of a criminal fugitive from justice or for the recovery of stolen property. (V.A.C.S. Art. 3883c, Sec. 1 (part); Art. 3891 (part); Art. 3912e, Secs. 2a, 19(c) (part), (d) (part); Art. 3912e-2 (part); Art. 3912i, Sec. 10 (part); Art. 3936e, Secs. 1 (part), 2; Art. 3936i, Secs. 1 (part), 2.)

Sec. 154.006. INSUFFICIENT SALARY FUND SUPPLEMENTED BY TRANSFER FROM GENERAL FUND. If a salary fund created under this chapter does not contain enough money to pay the claims against it, the commissioners court shall transfer to the salary fund from the general fund of the county an amount of money necessary to pay those claims. (V.A.C.S. Art. 3912e, Secs. 6(b) (part), 19(k) (part).)

Sec. 154.007. USE OF GENERAL FUND INSTEAD OF SALARY FUND. (a) At its first regular meeting in the first month of each fiscal year, the commissioners court may direct, by order entered in its minutes, that all money that otherwise would be deposited in a salary fund created under this chapter shall be deposited in the general fund of the county.

(b) In a county in which the order is adopted, a reference in this chapter to a salary fund means the general fund. (V.A.C.S. Art. 3912e, Secs. 4 (part), 19(i) (part).)

Sec. 154.008. LEGISLATIVE APPROPRIATION FOR OFFICERS COMPENSATED ON SALARY BASIS. (a) The comptroller of public accounts shall apportion and pay to counties in which county officers are compensated on a salary basis the money the legislature appropriates for the year for that purpose.

(b) The comptroller shall apportion the money on the basis of population. The annual apportionment may not exceed 14 cents a person, except that in a county that had a population of less than 60,000 according to the 1930 federal census and in which the ad valorem valuation for all purposes according to the most recently approved tax roll exceeds the valuation for 1930 by 50 percent or more, the annual apportionment may not exceed 25 cents a person.

(c) The comptroller shall make the payment each year in four installments on the first day of January, April, July, and October. However, if a commissioners court orders that county officers who were previously compensated by fees are to be compensated by salary, the comptroller shall pay the first installment to that county within 15 days after the date the comptroller receives notice of the commissioners court's order.

(d) The comptroller shall mail a warrant for the payment to the county treasurer. The warrant must be:

- (1) drawn on the state treasury;
- (2) payable to the county treasurer; and
- (3) registered by the comptroller and state treasurer.

(e) The payment shall be deposited in the salary fund of the county. If a county has more than one salary fund, the commissioners court shall apportion the payment among the salary funds. (V.A.C.S. Art. 3912e, Secs. 6(a), 19(r) (part).)

Sec. 154.009. EFFECT OF FAILURE TO COLLECT FEE OR COMMISSION. If, following a hearing, the commissioners court finds that a district, county, or precinct officer has, through neglect, failed to collect a fee or commission that the officer is required by law to collect, the commissioners court shall deduct the amount of the fee or commission from the officer's salary. Before the 10th day before the date of the hearing, the commissioners court shall provide the officer with notice of the time and place of the hearing and an itemized statement of the uncollected fees to be charged against the officer's salary. (V.A.C.S. Art. 3912e, Sec. 5 (part).)

[Sections 154.010–154.020 reserved for expansion]

SUBCHAPTER B. PROVISIONS APPLICABLE IN COUNTY WITH POPULATION OF 190,000 OR LESS

Sec. 154.021. COUNTIES COVERED BY SUBCHAPTER. This subchapter applies to a county with a population of 190,000 or less, except as otherwise provided by this subchapter. (New.)

Sec. 154.022. OPTION TO PAY COMPENSATION ON FEE BASIS OR SALARY BASIS IN COUNTY WITH POPULATION OF LESS THAN 20,000. (a) In a county with a population of less than 20,000, the commissioners court shall determine, by order entered in the record at its first regular meeting in the first month of each fiscal year, whether county officers are to be compensated for the fiscal year by an annual salary or by fees earned from the performance of official duties. This subsection does not apply to a county surveyor, registrar of vital statistics, or notary public or to a county officer required to be compensated on a salary basis.

(b) Before the expiration of the first month of the fiscal year, the county clerk shall deliver to the comptroller of public accounts a certified copy of the commissioners court's order. (V.A.C.S. Art. 3912e, Secs. 2 (part), 15 (part).)

Sec. 154.023. SALARY FUND. (a) A salary fund shall be created in the county to be known as the "officers' salary fund of _____ County, Texas." The following items shall be paid from the fund:

- (1) salaries of district, county, and precinct officers;
- (2) salaries of the officers' deputies, assistants, and clerks; and
- (3) the authorized expenses of the offices of those officers.

(b) The salary fund shall be:

- (1) deposited in the county depository;
- (2) kept separate from other county funds; and
- (3) protected to the same extent as other county funds. (V.A.C.S. Art. 3912e, Sec. 4 (part).)

Sec. 154.024. MONTHLY REPORT OF EXPENSES OF OFFICERS. At the end of each month, an officer who is compensated on a salary basis shall prepare a report of the officer's expenses. The report must:

(1) contain an itemized and sworn statement of all approved expenses incurred by the officer and charged to the officer's county;

(2) contain the name of the case, if any, in connection with which an expense is incurred; and

(3) be accompanied by invoices covering any purchases and requisitions issued by the officer and included in the report. (V.A.C.S. Art. 3899, Sec.(b) (part).)

Sec. 154.025. DISBURSEMENTS TO PERSON WITH OUTSTANDING DEBT PROHIBITED. A warrant may not be drawn on a salary fund in favor of a person, or an agent or assignee of a person, who is indebted to the state, the county, or the salary fund. (V.A.C.S. Art. 3912e, Sec. 7 (part).)

Sec. 154.026. TRANSFER OF SALARY FUND SURPLUS TO GENERAL FUND. After the end of a fiscal year, the commissioners court by order may transfer to the general fund of the county any money remaining in a salary fund if all claims against the salary fund incurred for the fiscal year have been paid. (V.A.C.S. Art. 3912e, Sec. 6(c).)

[Sections 154.027–154.040 reserved for expansion]

SUBCHAPTER C. PROVISIONS APPLICABLE IN COUNTY WITH POPULATION OF MORE THAN 190,000

Sec. 154.041. COUNTIES COVERED BY SUBCHAPTER. This subchapter applies to a county with a population of more than 190,000. (V.A.C.S. Art. 3912e, Sec. 19 (part).)

Sec. 154.042. SALARY FUND. (a) A salary fund shall be created in the county for each district, county, and precinct officer to be known as the "*(officer's title)* salary fund of *(name of county)* County, Texas." The purpose of the fund is to pay:

(1) the salary of the officer;

(2) the salaries of the officer's deputies, assistants, clerks, stenographers, and investigators; and

(3) authorized and approved expenses of the office of the officer.

(b) The salary fund shall be:

(1) deposited in the county depository;

(2) kept separate from other county funds; and

(3) protected to the same extent and draw the same interest as other county funds. (V.A.C.S. Art. 3912e, Sec. 19(i) (part).)

Sec. 154.043. PROCEDURES REGARDING PAYMENT OF EMPLOYEE SALARIES. (a) A district, county, or precinct officer may issue a warrant against the salary fund to pay the salary of an employee whose salary may be paid from the fund.

(b) A payment may not be made from the salary fund to an employee for a service performed before the person has taken the constitutional oath of office, if applicable, and the person's authorized appointment and oath, if any, have been filed for record with the county clerk and the county auditor, if the county has a county auditor. (V.A.C.S. Art. 3912e, Sec. 19(h) (part), (l) (part); Art. 3912e-4, Sec. 1 (part).)

Sec. 154.044. MONTHLY REPORT OF FEES, COMMISSIONS, AND EXPENSES OF OFFICERS. (a) On or before the fifth day of each month, a district, county, or precinct officer shall file with the county auditor a report, on a form prescribed by the county auditor, that contains:

(1) a detailed and itemized statement of all fees, commissions, and other compensation that the officer collected during the preceding month;

(2) an itemized and sworn statement of all expense claims paid during the preceding month; and

(3) the amount paid during the preceding month to each employee of the officer and the name and position of the employee.

(b) An officer who serves only part of the fiscal year shall file a report and make final settlement for the part of the fiscal year that the officer served. The officer is entitled to

the part of the officer's compensation proportionate to the part of the year served. (V.A.C.S. Art. 3912e, Sec. 19(l) (part), (o) (part).)

Sec. 154.045. DISBURSEMENTS TO PERSON WITH OUTSTANDING DEBT PROHIBITED. If a notice of indebtedness has been filed with the county auditor evidencing the indebtedness of a person to the state, the county, or a salary fund, a warrant may not be drawn on a salary fund in favor of the person, or an agent or assignee of the person, until the debt is paid. (V.A.C.S. Art. 3912e, Sec. 19(m) (part).)

Sec. 154.046. TRANSFER OF SALARY FUND SURPLUS TO GENERAL FUND. After the end of a fiscal year, the commissioners court by order shall transfer to the general fund of the county, by warrant issued by the county clerk, any money remaining in a salary fund when all claims against the fund incurred for the fiscal year have been paid and the officer's accounts have been audited and approved by the county auditor. (V.A.C.S. Art. 3912e, Sec. 19(m) (part).)

CHAPTER 155. DEDUCTIONS FROM COMPENSATION OF COUNTY EMPLOYEES

SUBCHAPTER A. CERTAIN DEDUCTIONS MADE BY COUNTY AUDITOR

Sec. 155.001. DEDUCTIONS AUTHORIZED IN COUNTIES WITH 20,000 OR MORE INHABITANTS; PURPOSES

Sec. 155.002. EMPLOYEE'S REQUEST

Sec. 155.003. PAYMENT OF ADMINISTRATIVE COSTS

Sec. 155.004. OTHER STATUTE NOT AFFECTED

[Sections 155.005–155.020 reserved for expansion]

SUBCHAPTER B. CERTAIN DEDUCTIONS MADE BY COUNTY TREASURER OR OTHER OFFICER

Sec. 155.021. DEDUCTIONS ENUMERATED

CHAPTER 155. DEDUCTIONS FROM COMPENSATION OF COUNTY EMPLOYEES

SUBCHAPTER A. CERTAIN DEDUCTIONS MADE BY COUNTY AUDITOR

Sec. 155.001. DEDUCTIONS AUTHORIZED IN COUNTIES WITH 20,000 OR MORE INHABITANTS; PURPOSES. In a county with 20,000 or more inhabitants, the commissioners court, on the request of a county employee, may authorize a payroll deduction to be made from the employee's wages or salary for:

- (1) payment to a credit union;
- (2) payment of membership dues in a labor union or a bona fide employees association; or
- (3) payment of fees for parking in a county-owned facility. (V.A.C.S. Art. 2372h–4, Sec. 1(a).)

Sec. 155.002. EMPLOYEE'S REQUEST. (a) A request for a payroll deduction must:

- (1) be in writing;
- (2) be submitted to the county auditor; and
- (3) state the amount to be deducted and the entity to which the amount is to be transferred.

(b) A request remains in effect until the county auditor receives a written notice of revocation signed by the employee.

(c) A payroll deduction may not exceed the amount stated in the request. (V.A.C.S. Art. 2372h–4, Secs. 1(b), (c).)

Sec. 155.003. PAYMENT OF ADMINISTRATIVE COSTS. (a) Public funds may not be used to pay the administrative costs of making a deduction, except for a deduction relating to the payment of parking fees in a county-owned facility.

(b) The credit union, labor union, or employees association for whose benefit a deduction is made shall pay any administrative costs for making the deduction. The

commissioners court shall determine the amount of the administrative costs. (V.A.C.S. Art. 2372h-4, Sec. 3.)

Sec. 155.004. OTHER STATUTE NOT AFFECTED. This chapter does not affect Chapter 135, Acts of the 50th Legislature, 1947 (Article 5154c, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 2372h-4, Sec. 2.)

[Sections 155.005-155.020 reserved for expansion]

SUBCHAPTER B. CERTAIN DEDUCTIONS MADE BY COUNTY TREASURER OR OTHER OFFICER

Sec. 155.021. DEDUCTIONS ENUMERATED. The county treasurer or, if another officer is specified by law, that other officer shall make the deductions from, or take other similar actions with regard to, the compensation of county employees as required:

- (1) for employee contributions for coverage under the federal social security program in accordance with Chapter 500, Acts of the 52nd Legislature, 1951 (Article 695g, Vernon's Texas Civil Statutes);
- (2) for the purchase of annuities or for contributions to investments for employees in accordance with Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes);
- (3) for the purchase of United States savings bonds for employees in accordance with Chapter 603, Acts of the 51st Legislature, Regular Session, 1949 (Article 6252-3, Vernon's Texas Civil Statutes);
- (4) for employee participation in a deferred compensation plan in accordance with Chapter 197, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-3b, Vernon's Texas Civil Statutes); or
- (5) for employee contributions to a retirement system in accordance with Section 55.403, Title 110B, Revised Statutes. (New.)

CHAPTER 156. ELECTRONIC FUNDS TRANSFER OF COMPENSATION AND REIMBURSEMENT OF COUNTY OFFICERS AND EMPLOYEES

- Sec. 156.001. TRANSFER SYSTEM AUTHORIZED
- Sec. 156.002. PAYEE REQUEST
- Sec. 156.003. ADMINISTRATION OF SYSTEM
- Sec. 156.004. TRANSFER TO MULTIPLE PAYEES
- Sec. 156.005. NO ADDITIONAL RIGHTS CREATED

CHAPTER 156. ELECTRONIC FUNDS TRANSFER OF COMPENSATION AND REIMBURSEMENT OF COUNTY OFFICERS AND EMPLOYEES

Sec. 156.001. TRANSFER SYSTEM AUTHORIZED. A county may establish and operate an electronic funds transfer system to transfer the following items directly into officers' and employees' accounts in financial institutions only:

- (1) the net pay of the officers and employees;
- (2) payments for the travel and subsistence of the officers and employees; and
- (3) all other forms of compensation, payment, or reimbursement paid to the officers and employees. (V.A.C.S. Art. 3912n, Sec. 1.)

Sec. 156.002. PAYEE REQUEST. An authorized payee must request in writing to participate in any electronic funds transfer system established and operated by the county. (V.A.C.S. Art. 3912n, Sec. 2(a).)

Sec. 156.003. ADMINISTRATION OF SYSTEM. The county auditor or, if the county does not have a county auditor, the chief financial officer of the county, with the approval of the commissioners court, shall establish the procedures for administering the system and may use the services of financial institutions, automated clearinghouses, and the federal government. (V.A.C.S. Art. 3912n, Sec. 3.)

Sec. 156.004. TRANSFER TO MULTIPLE PAYEES. A single transfer may contain payments to multiple payees without the necessity of issuing individual warrants for each payee. (V.A.C.S. Art. 3912n, Sec. 2(b).)

Sec. 156.005. NO ADDITIONAL RIGHTS CREATED. The use of an electronic funds transfer means of payment does not create any rights that would not have been created if an individual warrant had been used as a means of payment. (V.A.C.S. Art. 3912n, Sec. 4.)

CHAPTER 157. ASSISTANCE, BENEFITS, AND WORKING CONDITIONS OF COUNTY OFFICERS AND EMPLOYEES

SUBCHAPTER A. MEDICAL CARE, HOSPITALIZATION, AND INSURANCE

Sec. 157.001. HOSPITALIZATION INSURANCE

Sec. 157.002. MEDICAL CARE, HOSPITALIZATION, AND INSURANCE IN COUNTIES OF 500,000 OR MORE

Sec. 157.003. HOSPITAL AND INSURANCE FUND

Sec. 157.004. DISABILITY COMPENSATION IN COUNTIES OF 290,000 TO 500,000

Sec. 157.005. SUBROGATION

[Sections 157.006–157.020 reserved for expansion]

SUBCHAPTER B. HOURS OF WORK

Sec. 157.021. HOURS OF WORK OF COUNTY EMPLOYEES IN COUNTIES OF 355,000 OR MORE

Sec. 157.022. HOURS OF WORK OF PEACE OFFICERS IN COUNTIES OF MORE THAN 500,000

Sec. 157.023. HOURS OF WORK OF JAIL EMPLOYEES IN COUNTIES OF 140,001 TO 289,999

[Sections 157.024–157.040 reserved for expansion]

SUBCHAPTER C. LIABILITY INSURANCE

Sec. 157.041. GENERAL LIABILITY INSURANCE

Sec. 157.042. AUTOMOBILE LIABILITY INSURANCE FOR PEACE OFFICERS IN COUNTIES OF MORE THAN 1.4 MILLION

[Sections 157.043–157.060 reserved for expansion]

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 157.061. LEGAL DEFENSE OF EMPLOYEES

Sec. 157.062. PERSONNEL RULES APPLYING TO JUVENILE AND PROBATION OFFICERS, COURT REPORTERS, AND COUNTY AUDITOR'S OFFICE IN COUNTIES OF 500,000 OR MORE

CHAPTER 157. ASSISTANCE, BENEFITS, AND WORKING CONDITIONS OF COUNTY OFFICERS AND EMPLOYEES

SUBCHAPTER A. MEDICAL CARE, HOSPITALIZATION, AND INSURANCE

Sec. 157.001. HOSPITALIZATION INSURANCE. The commissioners court of a county may provide hospitalization insurance to a county official, deputy, assistant, or other county employee. (V.A.C.S. Art. 2372h–2.)

Sec. 157.002. MEDICAL CARE, HOSPITALIZATION, AND INSURANCE IN COUNTIES OF 500,000 OR MORE. (a) In a county with a population of 500,000 or more, the commissioners court by rule may provide for medical care and hospitalization and may provide for compensation, accident, hospital, and disability insurance for the following persons if their salaries are paid from the funds of the county or of a flood control district located entirely in the county:

- (1) deputies, assistants, and other employees of the county, or of the flood control district, who work under the commissioners court or its appointees; and

(2) deputies and assistants appointed under Subchapter A, Chapter 151, by county and district officers.

(b) The commissioners court may contract with a county-operated hospital or a hospital operated jointly by a city and county to provide medical care and hospitalization under this section. The commissioners court may, if circumstances warrant, provide for medical care and hospitalization in a private hospital.

(c) A rule adopted under this section relating to a person's medical care, hospitalization, or insurance coverage must be included in the person's employment contract.

(d) A rule adopted under this section is subject to the approval of the county auditor.

(e) Before adopting a rule under this section, the commissioners court must give notice of a hearing about the proposed adoption. The notice must be published in a newspaper that is published in the county. The publication must be made at least once a week for two consecutive weeks. The first notice must appear before the 15th day before the date of the hearing. The notice must provide a brief summary of the rule as well as the time and day of the hearing. On adoption, the rule must be entered in the minutes of the hearing and it takes effect on the date set out in the rule. At the hearing, an employee or taxpayer of the county is entitled to appear and protest the adoption of a rule. (V.A.C.S. Art. 2372h, Secs. 1 (part), 2 (part), 3 (part), 5.)

Sec. 157.003. HOSPITAL AND INSURANCE FUND. (a) In a county that adopts rules under Section 157.002, the commissioners court may require persons participating in the health plan to contribute toward the payment of the plan. The commissioners court may establish a fund to be known as the "Hospital and Insurance Fund—County Employees" to pay for the medical care or hospitalization or the insurance.

(b) A person who elects to participate in the health plan must authorize contributions to the fund by salary deduction. The authorization must be in writing and must be given at the time of the person's employment or on the effective date of the rules. The county and any participating flood control district shall also contribute to the fund. A person who does not contribute to the plan may not receive hospitalization or insurance benefits.

(c) The fund may be used only for the purposes stated in Subsection (a). Employees who are discharged or who end their employment voluntarily have no vested right to contributions made to the fund. The fund shall continue to be used for the benefit of the remaining employees.

(d) Claims shall be paid from the fund in the same manner as provided by law for the payment of other claims of the county or flood control district.

(e) If a plan established under this section is terminated by the commissioners court, the remaining funds shall be transferred to the county and to any participating flood control district in proportion to the total contributions made by them. (V.A.C.S. Art. 2372h, Sec. 2 (part).)

Sec. 157.004. DISABILITY COMPENSATION IN COUNTIES OF 290,000 TO 500,000. (a) The commissioners court of a county with a population of 290,000 to 500,000 shall provide for the payment of a county employee who is made totally unfit to continue employment because of a physical injury occurring in the actual and active discharge of a duty. The payment may not cover more than six months of disability. The payment must be in the following amounts:

(1) full salary for each month, or part of a month, of total disability during the first three months of the disability; and

(2) one-half salary for each month, or part of a month, of total disability during the second three months of the disability.

(b) The commissioners court, before making an award for disability under this section, shall conduct a hearing to determine the merits of the claim and may subpoena and examine witnesses to assist in the determination. The commissioners court may grant or refuse an award.

(c) The employee making a claim under this section may appeal a decision of the commissioners court within 10 days after the date of the decision. Appeal is by trial de

novo before the court that has jurisdiction of the amount involved. (V.A.C.S. Art. 2372g-1, Secs. 1, 2.)

Sec. 157.005. SUBROGATION. (a) A county that has paid medical expenses, doctor bills, hospital bills, or salary for a sheriff, deputy sheriff, constable, deputy constable, or other county or precinct law enforcement official under Article III, Section 52e, of the Texas Constitution, as adopted in 1967, is subrogated to the law enforcement official's right of recovery for personal injuries caused by another to the extent of the payments made by the county.

(b) A county may not refuse to pay medical expenses, doctor bills, or hospital bills on the ground that the law enforcement official has a claim for damages for personal injury. (V.A.C.S. Art. 1581b-1.)

[Sections 157.006–157.020 reserved for expansion]

SUBCHAPTER B. HOURS OF WORK

Sec. 157.021. HOURS OF WORK OF COUNTY EMPLOYEES IN COUNTIES OF 355,000 OR MORE. In a county with a population of 355,000 or more, the commissioners court may adopt and enforce uniform rules on the hours of work of department heads, assistants, deputies, and other employees whose compensation is set or approved by the court. (V.A.C.S. Art. 2372h, Sec. 1 (part); Art. 3912e-4a, Secs. 1, 4 (part); Art. 3912e-4b, Sec. 1.)

Sec. 157.022. HOURS OF WORK OF PEACE OFFICERS IN COUNTIES OF MORE THAN 500,000. (a) A peace officer employed by a county with a population of more than 500,000 may not be required to work more hours during a calendar week than the number of hours in the normal work week of the majority of other county employees.

(b) A sheriff or constable may require a peace officer to work more hours than allowed by Subsection (a) if the sheriff or constable determines an emergency exists that requires the officer to work extra hours.

(c) A peace officer who elects to work extra hours during a calendar week shall be compensated on a basis consistent with overtime provisions of the county personnel policy. (V.A.C.S. Art. 5167a.)

Sec. 157.023. HOURS OF WORK OF JAIL EMPLOYEES IN COUNTIES OF 140,001 TO 289,999. A guard, matron, jailer, or turnkey employed by a county with a population of 140,001 to 289,999 may not work more than eight hours in one day. (V.A.C.S. Art. 6871 (part).)

[Sections 157.024–157.040 reserved for expansion]

SUBCHAPTER C. LIABILITY INSURANCE

Sec. 157.041. GENERAL LIABILITY INSURANCE. (a) The commissioners court of a county may insure an official or employee of the county, including county and precinct peace officers designated by the commissioners court, against liability arising from the performance of official duties or duties of employment.

(b) Insurance provided under this section must be purchased from an insurance company authorized to do business in this state and must be on forms approved by the State Board of Insurance.

(c) The State Board of Insurance shall adopt rules and set rates to implement this section. (V.A.C.S. Art. 2372h-7.)

Sec. 157.042. AUTOMOBILE LIABILITY INSURANCE FOR PEACE OFFICERS IN COUNTIES OF MORE THAN 1.4 MILLION. (a) A county with a population of more than 1.4 million shall insure its sheriff, constables, and full-time deputies of those officers against liability to third persons arising from the operation or maintenance of county-owned or county-leased motor vehicles.

(b) A county may satisfy the requirement of Subsection (a) by requiring that the person to be covered purchase an extended coverage endorsement to an individually owned liability insurance policy and by reimbursing the person for its cost. The extended

coverage endorsement must be in an amount equal to or greater than that required by Subsection (d) and must extend coverage to include the operation of county vehicles in the scope of the person's employment. The county may require a person insured in this manner to provide proof of coverage.

(c) A county may elect to comply with the requirements of this section by self-insuring in accordance with Section 34, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

(d) Liability coverage required under this section must be in amounts equal to or greater than the amounts required by the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

(e) In this section, "motor vehicle" means a vehicle for which motor vehicle insurance is written under Subchapter A, Chapter 5, Insurance Code. (V.A.C.S. Art. 2372h-9.)

[Sections 157.043-157.060 reserved for expansion]

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 157.061. **LEGAL DEFENSE OF EMPLOYEES.** (a) A county official or employee sued by a nonpolitical entity for an action arising from the performance of public duty is entitled to be represented by the district attorney of the district in which the county is located, the county attorney, or both.

(b) If additional counsel is necessary or proper in the case of an official or employee provided legal counsel under Subsection (a) or if it reasonably appears that the act complained of may form the basis for the filing of a criminal charge against the official or employee, the official or employee is entitled to have the commissioners court of the county employ and pay private counsel.

(c) A county official or employee is not required to accept the legal counsel provided in this section.

(d) In this section, "nonpolitical entity" means an individual, firm, corporation, association, or other private entity. It does not include the state, a political subdivision of the state, a city, a special district, or other public entity. (V.A.C.S. Art. 332c.)

Sec. 157.062. **PERSONNEL RULES APPLYING TO JUVENILE AND PROBATION OFFICERS, COURT REPORTERS, AND COUNTY AUDITOR'S OFFICE IN COUNTIES OF 500,000 OR MORE.** (a) This section applies only to counties with a population of 500,000 or more.

(b) The district judges in the county may, by a majority vote at a meeting of which each judge has notice, apply to all juvenile and probation officers appointed under Title 82, Revised Statutes, all court reporters, and the county auditor and all the auditor's assistants in the county the rules that:

(1) are adopted by the commissioners court in the county for other county and district employees; and

(2) relate to hours of work; vacations; holidays; sick leave; deductions for absences; retirement; medical care; hospitalization; and compensation, accident, hospital, and disability insurance.

(c) The district judges must uniformly apply the rules as far as practicable.

(d) If the district judges do not exercise their authority under Subsection (b):

(1) the juvenile board of the county may, to the extent the board determines, apply the rules to the juvenile and probation officers;

(2) the district judges may, to the extent the judges determine by vote of a majority present, apply the rules to the court reporters; and

(3) the county auditor may, to the extent the auditor determines and with the approval of a majority of the district judges, apply the rules to the county auditor and the auditor's assistants.

(e) A decision of the district judges under Subsection (d)(2), must be evidenced by an order entered in the minutes of each judge's court. A certified copy of the order must be given to the commissioners court of the county.

(f) If a juvenile or probation officer, a county auditor, or an assistant to the auditor is jointly employed by two or more subdivisions of government, the rules that are applied to that person may be changed accordingly. To achieve uniform application of the rules, the person may be considered to be employed and paid by only one subdivision, but the expenses of administration and contributions may be prorated to the different employing subdivisions.

(g) This section does not affect any other law that applies to the time, method, and manner of appointment or discharge of a juvenile or probation officer, a court reporter, or the county auditor or an assistant to the auditor or that applies to the number or salaries of those persons. (V.A.C.S. Art. 2372h, Secs. 1 (part), 6.)

CHAPTER 158. COUNTY CIVIL SERVICE

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CHAPTER 158. COUNTY CIVIL SERVICE

SUBCHAPTER A. COUNTY CIVIL SERVICE SYSTEM

Sec. 158.001. DEFINITIONS. In this subchapter:

(1) "Commission" means a county civil service commission.

(2) "Employee" means a person who obtains a position by appointment and who is not authorized by statute to perform governmental functions involving an exercise of discretion in the person's own right, or a person included in the coverage of a county civil service system as the result of an election held under Section 158.007. The term

does not include a person who holds an office the term of which is limited by the constitution of this state.

(3) "Department" means a county, district, or precinct office or officer, agency, or board that has jurisdiction and control of the performance of employees' official duties. (V.A.C.S. Art. 2372h-6, Sec. 1.)

Sec. 158.002. ELIGIBLE COUNTIES. A county with a population of 200,000 or more may, in accordance with this subchapter, create a county civil service system to include all the employees of the county who are not exempted from the system by the express terms or judicial interpretations of this subchapter or by the operation of Subchapter B. (V.A.C.S. Art. 2372h-6, Sec. 2.)

Sec. 158.003. CREATION BY ORDER. (a) A county civil service system may be created by an order adopted by a majority of the members of the commissioners court of the county.

(b) A copy of an order adopted under this section shall be placed in the minutes of the court's proceedings. The copy of the order is public information. (V.A.C.S. Art. 2372h-6, Secs. 3 (part), 4.)

Sec. 158.004. CREATION BY ELECTION. (a) A county civil service system may be created by approval of the system by a majority of the qualified voters of the county voting at an election called for that purpose.

(b) The commissioners court by order may call an election on the question of the creation of a county civil service system.

(c) The commissioners court shall hold the election called under this section on the first authorized uniform election date prescribed by Chapter 41, Election Code, that allows sufficient time for publication of the notice required by Subsection (e) and for compliance with any other requirements established by law.

(d) The order calling the election must specify the date, time, and place of the election, the form of the ballots, and the name of the presiding judge for each voting place.

(e) In addition to the notice required by Chapter 4, Election Code, the commissioners court must publish in a newspaper of general circulation in the county a substantial copy of the order calling the election. The first publication must be made on or before the 15th day before the date of the election and continue once a week for two consecutive weeks. (V.A.C.S. Art. 2372h-6, Secs. 3 (part), 5(a), (b), (c), (e) (part).)

Sec. 158.005. BALLOTS AND VOTING AT ELECTION TO CREATE SYSTEM. (a) Each qualified voter of the county is entitled to vote at the election.

(b) The commissioners court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Creation of a county civil service system." (V.A.C.S. Art. 2372h-6, Secs. 5(e) (part), (f).)

Sec. 158.006. RESULT OF ELECTION TO CREATE SYSTEM. (a) The presiding judge of each voting place shall supervise the counting of votes cast at the election.

(b) Within 24 hours after the election, each judge shall certify to the commissioners court the results of the election at the voting place.

(c) A copy of the results of the election shall be filed with the county clerk. The copy on file with the county clerk is a public record.

(d) If the proposition is approved, the commissioners court shall declare the result and by order create the county civil service system. A copy of the order creating the system shall be placed in the minutes of the court's proceedings. (V.A.C.S. Art. 2372h-6, Secs. 5(d), (g) (part).)

Sec. 158.007. EXPANDED COVERAGE OR DISSOLUTION OF SYSTEM IN POPULOUS COUNTIES. (a) In a county that has a population of more than 800,000 and a civil service system created under this subchapter, the qualified voters of the county, voting at an election called for that purpose, may determine whether the system will be dissolved or expanded to cover the employees, except licensed attorneys, of the office of district or criminal district attorney, the adult and juvenile probation officers and their assistants, personnel in the county auditor's office including all assistant county auditors, and all

other employees of the county not included in the coverage of the system and not specifically exempted by Section 158.013 or Subchapter B.

(b) The commissioners court of an eligible county by order may call an election on the question of the expansion or dissolution of a county civil service system as provided by Subsection (a).

(c) Except as otherwise provided by this section, the election must be held in the manner provided for an election to create a county civil service system.

(d) The election must be held on the date of the general election for state and county officers.

(e) Each qualified voter of the county is entitled to vote at the election.

(f) The commissioners court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Keeping and expanding the county civil service system."

(g) The commissioners court shall declare the results and, if the proposition is approved by a majority of the qualified voters voting at the election, by order expand the coverage of the system as provided by Subsection (a). If the proposition is not so approved, the commissioners court by order shall dissolve the county civil service system. A copy of the order expanding or dissolving the system shall be placed in the minutes of the court's proceedings. (V.A.C.S. Art. 2372h-6, Sec. 5A.)

Sec. 158.008. APPOINTMENT OF COMMISSION. (a) If a civil service system is created under this subchapter, the commissioners court shall appoint three persons to serve as the members of the civil service commission that administers the system. The commissioners court shall designate one of the members as chairman of the commission.

(b) Each member of the commission is appointed for a term of two years.

(c) The commissioners court shall fill a vacancy on the commission by appointing a person to serve the unexpired part of the term of the member whose position is vacant.

(d) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; and

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin. (V.A.C.S. Art. 2372h-6, Sec. 6.)

Sec. 158.009. POWERS OF COMMISSION. (a) Except as provided by Section 158.010, the commission shall adopt, publish, and enforce rules regarding:

(1) selection and classification of county employees;

(2) competitive examinations;

(3) promotions, seniority, and tenure;

(4) layoffs and dismissals;

(5) disciplinary actions;

(6) grievance procedures; and

(7) other matters relating to the selection of county employees and the procedural and substantive rights, advancement, benefits, and working conditions of county employees.

(b) The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and serves the needs of the county.

(c) The commission may not adopt or enforce a rule requiring a county employee to retire because of age. The commission may adopt a rule requiring a county employee, on reaching an age set by the commission, to submit annually to the commission an affidavit from a physician stating that the employee is physically and mentally capable of continuing employment. (V.A.C.S. Art. 2372h-6, Sec. 8.)

Sec. 158.010. EMPLOYMENT BY DEPARTMENTS. (a) The head of each department included in the coverage of a county civil service system may assume responsibility for selecting all persons who are to be employees of that department.

(b) A person employed by a department whose head has assumed responsibility as provided by Subsection (a) serves as a probationary employee during the first six months after selection and may not be included in the coverage of the county civil service system during that six-month period. At the end of the six-month period the person's employment may be terminated or the person may be made a permanent employee by the head of the department.

(c) On becoming a permanent employee, a person comes under the coverage of the county civil service system and is fully entitled to all benefits of and subject to all obligations imposed by the system.

(d) This section does not affect the status of any person who is an employee of a department under a county civil service system on the date the head of the department assumes responsibility for selecting persons who are to be employees of that department.

(e) The rules adopted by the commission under Section 158.009 relating to the selection and classification of county employees and to competitive examinations for selection do not apply to the initial hiring of personnel under this section. (V.A.C.S. Art. 2372h-6, Sec. 8A.)

Sec. 158.011. COMPENSATION AND STAFF. The members of the commission serve without compensation, but the commissioners court shall reimburse each member for all necessary expenses incurred in performing the member's duties. The commissioners court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment. (V.A.C.S. Art. 2372h-6, Sec. 7.)

Sec. 158.012. APPEALS. (a) A county employee who, on a final decision by the commission, is demoted, suspended, or removed from the employee's position may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal under this section is by trial de novo, and the judgment of the district court is appealable as in other civil cases.

(c) If the district court renders judgment for the petitioner, the court may order reinstatement of the employee, payment of back pay, or other appropriate relief. (V.A.C.S. Art. 2372h-6, Sec. 9.)

Sec. 158.013. EXEMPTIONS. (a) A person who on August 30, 1971, was an employee of an eligible county under this subchapter may not be required to take a competitive examination or perform any other act to maintain the position held on that date.

(b) This subchapter does not apply to:

- (1) assistant district attorneys, investigators, or other employees of a district or criminal district attorney, except as provided by Section 158.007;
- (2) the official shorthand reporter of a court; or
- (3) an elected or appointed officer under the constitution. (V.A.C.S. Art. 2372h-6, Sec. 10.)

Sec. 158.014. DISSOLUTION OF SYSTEM. (a) If, after a civil service system under this subchapter has been in effect for at least one year, 10 percent of the qualified voters of the county petition the commissioners court to dissolve the system, the commissioners court shall call an election to determine whether the system will be dissolved.

(b) An election under this section must be held in the manner provided for an election to create a county civil service system.

(c) The ballot for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the county civil service system."

(d) If the proposition is approved by a majority of the qualified voters voting at the election, the commissioners court shall declare the result and by order dissolve the civil service system. A copy of the order dissolving the system shall be placed in the minutes of the court's proceedings. (V.A.C.S. Art. 2372h-6, Sec. 11.)

Sec. 158.015. **LIMITATION ON ELECTIONS.** The commissioners court may not call an election under Section 158.004 or 158.014 for at least two years after the date of any previous election under either of those sections. (V.A.C.S. Art. 2372h-6, Sec. 12.)

[Sections 158.016–158.030 reserved for expansion]

SUBCHAPTER B. SHERIFF'S DEPARTMENT CIVIL SERVICE SYSTEM

Sec. 158.031. **DEFINITIONS.** In this subchapter:

- (1) "Commission" means a sheriff's department civil service commission.
- (2) "Department" means a sheriff's department.
- (3) "Employee" means an employee of a sheriff's department. The term includes a deputy sheriff. (V.A.C.S. Art. 2372h-8, Sec. 1.)

Sec. 158.032. **ELIGIBLE DEPARTMENTS.** A sheriff's department in a county with a population of more than 950,000 may, in accordance with this subchapter, create a civil service system. (V.A.C.S. Art. 2372h-8, Sec. 2.)

Sec. 158.033. **PETITION AND ELECTION.** (a) If at least 20 percent of the employees of an eligible department under this subchapter sign a petition requesting an election under this section and present the petition to the county judge of the employing county, the judge shall order a departmental election on the question of the creation of a sheriff's department civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Creation of a sheriff's department civil service system."

(d) The county judge shall canvass the votes and declare the result. (V.A.C.S. Art. 2372h-8, Sec. 3.)

Sec. 158.034. **APPOINTMENT OF COMMISSION.** (a) If a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint one person to serve as a member of the civil service commission that administers the system. The sheriff shall designate one of the members as chairman of the commission.

(b) Each member of the commission is appointed for a term of two years. However, the initial members of the commission shall determine by lot which two of them will serve a term of two years and which one of them will serve a term of one year.

(c) The entity that appointed a member of the commission whose position becomes vacant shall appoint a person to serve the unexpired part of the member's term.

(d) To be eligible for appointment to the commission, a person must:

- (1) be at least 25 years old; and
- (2) have resided in the county for the three years immediately preceding the date on which the person's term will begin. (V.A.C.S. Art. 2372h-8, Sec. 4.)

Sec. 158.035. **POWERS OF COMMISSION.** (a) The commission shall adopt, publish, and enforce rules regarding:

- (1) selection and classification of employees;
- (2) competitive examinations;
- (3) promotions, seniority, and tenure;
- (4) layoffs and dismissals;
- (5) disciplinary actions;
- (6) grievance procedures; and
- (7) other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and working conditions of employees.

(b) The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and is consistent with the needs and circumstances of the department. (V.A.C.S. Art. 2372h-8, Sec. 6.)

Sec. 158.036. COMPENSATION AND STAFF. The members of the commission serve without compensation, but the commissioners court shall reimburse each member for actual and necessary expenses incurred in performing the member's duties. The commissioners court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment. (V.A.C.S. Art. 2372h-8, Sec. 5.)

Sec. 158.037. APPEALS. (a) An employee who, on a final decision by the commission, is demoted, suspended, or removed from a position may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal under this section is by trial de novo, and the judgment of the district court is appealable as in other civil cases.

(c) If the district court renders judgment for the petitioner, the court may order reinstatement of the employee, payment of back pay, or other appropriate relief. (V.A.C.S. Art. 2372h-8, Sec. 7.)

Sec. 158.038. EXEMPTIONS. (a) A person who is an employee of a department on the date that a civil service system is adopted under this subchapter in the department may not be required to take a competitive examination or perform any other act under this subchapter to maintain the person's employment.

(b) The sheriff may designate as exempt from the civil service system:

- (1) the position of chief deputy;
- (2) four positions of major deputy;
- (3) one or more positions in the office of departmental legal counsel; and
- (4) additional positions in the department.

(c) The sheriff may not designate as exempt a total of more than 10 positions.

(d) At the time a new sheriff takes office, an employee holding an exempt position may be transferred to the nonexempt position held by the employee immediately before being promoted to an exempt position. A person who was not an officer in the department when appointed to an exempt position may be transferred only to an entry level position in accordance with the system's civil service rules. (V.A.C.S. Art. 2372h-8, Sec. 8.)

Sec. 158.039. DISSOLUTION OF SYSTEM. (a) If, after a civil service system under this subchapter has been in effect in a department for at least one year, 20 percent of the employees of the department petition the county judge to dissolve the system, the judge shall order a departmental election on the question of the dissolution of the department's civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the sheriff's department civil service system."

(d) The county judge shall canvass the votes and declare the result.

(e) If the proposition is approved by a majority of the employees voting at the election, the county judge shall declare the sheriff's department civil service system dissolved. (V.A.C.S. Art. 2372h-8, Sec. 9.)

Sec. 158.040. EXCLUSIVITY. A civil service system created under this subchapter and in effect applies to the department to the exclusion of a civil service system in that county created under Subchapter A or another law. (V.A.C.S. Art. 2372h-8, Sec. 10.)

[Chapters 159–170 reserved for expansion]

SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 171. REGULATION OF CONFLICTS OF INTEREST OF OFFICERS OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

- Sec. 171.001. DEFINITIONS
- Sec. 171.002. SUBSTANTIAL INTEREST IN BUSINESS ENTITY
- Sec. 171.003. PROHIBITED ACTS; PENALTY
- Sec. 171.004. AFFIDAVIT REQUIRED
- Sec. 171.005. CONTRACT AUTHORIZED
- Sec. 171.006. VOTING ON BUDGET
- Sec. 171.007. NO LIMITATION ON COMMON LAW REMEDIES
- Sec. 171.008. EFFECT OF VIOLATION OF CHAPTER

SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 171. REGULATION OF CONFLICTS OF INTEREST OF OFFICERS OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 171.001. DEFINITIONS. In this chapter:

(1) “Local public official” means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

(2) “Business entity” means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. (V.A.C.S. Art. 988b, Sec. 1.)

Sec. 171.002. SUBSTANTIAL INTEREST IN BUSINESS ENTITY. (a) For purposes of this chapter, a person has a substantial interest in a business entity if:

(1) the interest is ownership of 10 percent or more of the voting stock or shares of the business entity or ownership of \$2,500 or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person’s gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

(c) A local public official is considered to have a substantial interest under this section if a person related to the official within the second degree by consanguinity or affinity has a substantial interest under this section. (V.A.C.S. Art. 988b, Sec. 2.)

Sec. 171.003. PROHIBITED ACTS; PENALTY. (a) Except as provided by Section 171.005 or 171.006, a local public official commits an offense if the official knowingly:

(1) participates in a vote or decision on a matter involving a business entity in which the official has a substantial interest if it is reasonably foreseeable that an action on the matter would confer an economic benefit on the business entity;

(2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

(b) An offense under this section is a Class A misdemeanor. (V.A.C.S. Art. 988b, Sec. 3.)

Sec. 171.004. AFFIDAVIT REQUIRED. (a) If a local public official has a substantial interest in a business entity that would be peculiarly affected by any official action taken by the governing body, the official shall file, before a vote or decision on the matter, an

affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter.

(b) The affidavit must be filed with the official record keeper of the governmental entity. (V.A.C.S. Art. 988b, Sec. 4.)

Sec. 171.005. CONTRACT AUTHORIZED. The governing body of a governmental entity may contract for the purchase of services or personal property with a business entity in which a member of the governing body has a substantial interest if the business entity is the only business entity that:

(1) provides the needed service or product within the jurisdiction of the governmental entity; and

(2) bids on the contract. (V.A.C.S. Art. 988b, Sec. 5(a).)

Sec. 171.006. VOTING ON BUDGET. (a) The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest.

(b) The affected member may not participate in that separate vote, but may vote on a final budget if:

(1) the member has complied with this chapter; and

(2) the matter in which the member is concerned has been resolved. (V.A.C.S. Art. 988b, Sec. 5(b).)

Sec. 171.007. NO LIMITATION ON COMMON LAW REMEDIES. The penalties and remedies provided by this chapter do not limit common law remedies in tort, contract, or equity, including a suit for damages, injunction, or mandamus. (V.A.C.S. Art. 988b, Sec. 6 (part).)

Sec. 171.008. EFFECT OF VIOLATION OF CHAPTER. The finding by a court of a violation under this chapter does not render an action of the governing body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter. (V.A.C.S. Art. 988b, Sec. 6 (part).)

[Chapters 172–179 reserved for expansion]

CHAPTER 180. MISCELLANEOUS PROVISIONS AFFECTING OFFICERS AND EMPLOYEES OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 180.001. COERCION OF POLICE OFFICER OR FIRE FIGHTER IN CONNECTION WITH POLITICAL CAMPAIGN

Sec. 180.002. DEFENSE OF CIVIL SUITS AGAINST PEACE OFFICERS

Sec. 180.003. MAXIMUM DUTY HOURS OF PEACE OFFICERS

CHAPTER 180. MISCELLANEOUS PROVISIONS AFFECTING OFFICERS AND EMPLOYEES OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 180.001. COERCION OF POLICE OFFICER OR FIRE FIGHTER IN CONNECTION WITH POLITICAL CAMPAIGN. (a) An individual commits an offense if the individual coerces a police officer or a fire fighter to participate or to refrain from participating in a political campaign.

(b) An offense under this section is a misdemeanor and is punishable by a fine of not less than \$500 or more than \$2,000, confinement in the county jail for not more than two years, or both a fine and confinement. (V.A.C.S. Art. 1269n.)

Sec. 180.002. DEFENSE OF CIVIL SUITS AGAINST PEACE OFFICERS. (a) In this section, “peace officer” has the meaning assigned by Article 2.12, Code of Criminal Procedure.

(b) A municipality or special purpose district shall provide a peace officer with legal counsel without cost to the officer to defend the officer against a suit for damages by a party other than a governmental entity if:

- (1) the officer is employed by it;
- (2) legal counsel is requested by the officer; and
- (3) the suit involves an official act of the officer within the scope of the officer's authority.

(c) To defend the peace officer against the suit, the municipality or special purpose district may provide counsel already employed by it or may employ private counsel.

(d) If the municipality or special purpose district fails to provide counsel as required by Subsection (b), the peace officer may recover from it the reasonable attorney's fees incurred in defending the suit if the trier of fact finds:

- (1) that the fees were incurred in defending a suit covered by Subsection (b); and
- (2) that the officer is without fault or that the officer acted with a reasonable good faith belief that the officer's actions were proper. (V.A.C.S. Art. 1269s.)

Sec. 180.003. MAXIMUM DUTY HOURS OF PEACE OFFICERS. (a) In a county with a population of 160,000 to 170,000, a sheriff, deputy, constable, or other peace officer of the county or a municipality located in the county may not be required to be on duty more than 48 hours a week unless the peace officer is called on by a superior officer to serve during an emergency as determined by the superior officer.

(b) Hours of duty over 48 hours a week, compiled by a peace officer under Subsection (a), may be treated as overtime and may be deducted from future required hours of duty if:

- (1) the overtime is used within one year after it is compiled; and
- (2) the peace officer obtains the permission of the superior officer. (V.A.C.S. Art. 6877-3.)

TITLE 6. RECORDS

SUBTITLE A. MUNICIPAL RECORDS

CHAPTER 181. MICROFILMING OF MUNICIPAL RECORDS

- Sec. 181.001. DEFINITION
 Sec. 181.002. AUTHORIZATION OF MICROFILM SYSTEM
 Sec. 181.003. REQUIREMENTS OF ORDINANCE
 Sec. 181.004. EFFECTIVE AS ORIGINAL RECORD
 Sec. 181.005. DESTRUCTION OF ORIGINAL RECORD

TITLE 6. RECORDS

SUBTITLE A. MUNICIPAL RECORDS

CHAPTER 181. MICROFILMING OF MUNICIPAL RECORDS

Sec. 181.001. DEFINITION. In this chapter, "microfilm" includes microphotograph. (New.)

Sec. 181.002. AUTHORIZATION OF MICROFILM SYSTEM. The governing body of a municipality by ordinance may provide for the accurate and permanent copying, reproduction, or origination of public records on film by microfilm process. (V.A.C.S. Art. 6574c, Sec. 1 (part).)

Sec. 181.003. REQUIREMENTS OF ORDINANCE. An ordinance adopted under Section 181.002 must:

- (1) specify the types of records to be recorded on microfilm;
- (2) require indexes to microfilm records;

(3) require microfilm, other than microfilm determined by the governing body to be intended only for short-term use, to meet requirements of the United States Standards Institute for archival quality, density, resolution, and definition;

(4) require a person to check and certify that each microfilm record is an accurate duplication of the original public record; and

(5) guarantee the public free access to information that is contained on microfilm and to which the public is entitled under law. (V.A.C.S. Art. 6574c, Sec. 1 (part).)

Sec. 181.004. EFFECTIVE AS ORIGINAL RECORD. (a) A microfilm record created in compliance with an ordinance made under this chapter is an original record and shall be accepted by a court or administrative agency of this state.

(b) If issued and certified by a record keeper of a municipality, a copy on paper or film of a microfilm original record shall be accepted by a court or administrative agency of this state as a certified copy of an original record. (V.A.C.S. Art. 6574c, Sec. 2.)

Sec. 181.005. DESTRUCTION OF ORIGINAL RECORD. (a) Except as provided by this section, an original public record from which a microfilm record has been created under this chapter may be destroyed as directed by the governing body of the municipality with the advice and consent of the person officially performing the duties of city attorney. Except as provided by this section, an original public record that has not been microfilmed in compliance with an ordinance adopted under this chapter and that is determined by the governing body of the municipality to be worthless may be destroyed as directed by the governing body.

(b) An original public record the subject matter of which is in litigation may not be destroyed until the litigation is over.

(c) Notice of the proposed destruction of an original public record must be given to the state librarian or state archivist. If the state librarian or state archivist determines that the record proposed to be destroyed is needed for the state library, the record shall be transferred to the state library.

(d) An original public record from which a microfilm record has been created under this chapter may not be destroyed if federal or state law requires preservation. (V.A.C.S. Art. 6574c, Sec. 3.)

[Chapters 182–190 reserved for expansion]

SUBTITLE B. COUNTY RECORDS

CHAPTER 191. GENERAL RECORDS PROVISIONS AFFECTING COUNTIES

Sec. 191.001. COUNTY RECORDER; SEAL; GENERAL DUTIES

Sec. 191.002. RECORDS TO BE KEPT IN WELL-BOUND BOOKS OR ON MICROFILM

Sec. 191.003. EFFECTIVE DATE OF RECORDING

Sec. 191.004. ATTESTED COPIES

Sec. 191.005. EFFECT OF COPY

Sec. 191.006. PUBLIC ACCESS TO RECORDS

SUBTITLE B. COUNTY RECORDS

CHAPTER 191. GENERAL RECORDS PROVISIONS AFFECTING COUNTIES

Sec. 191.001. COUNTY RECORDER; SEAL; GENERAL DUTIES. (a) As provided by Article V, Section 20, of the Texas Constitution, the county clerk of a county serves as the county recorder.

(b) The county clerk shall use the county court seal to authenticate all of the clerk's official acts as county recorder.

(c) The county clerk shall record, exactly, without delay, and in the manner provided by this subtitle, the contents of each instrument that is filed for recording and that the clerk is authorized to record.

(d) The county clerk shall keep the records properly indexed, arranged, and preserved as provided by this subtitle. (V.A.C.S. Arts. 1941 (part), 6591 (part), 6592, 6595 (part).)

Sec. 191.002. RECORDS TO BE KEPT IN WELL-BOUND BOOKS OR ON MICROFILM. (a) When the county clerk records an instrument, the clerk shall do so in a suitable well-bound book. However, this requirement does not apply to an instrument recorded and maintained on microfilm as provided by Chapter 194.

(b) The county clerk shall keep regular and faithful accounts of the expenses incurred in providing the books. The commissioners court of the county shall audit those accounts and shall pay those expenses from the county treasury. (V.A.C.S. Arts. 6591 (part), 6593.)

Sec. 191.003. EFFECTIVE DATE OF RECORDING. An instrument filed with a county clerk for recording is considered recorded from the time that the instrument is filed. (V.A.C.S. Art. 6596 (part).)

Sec. 191.004. ATTESTED COPIES. (a) On demand, the county clerk shall give an attested copy of any instrument that is recorded in the clerk's office.

(b) The fee provided by law for an attested copy shall be paid to the clerk. (V.A.C.S. Art. 6600.)

Sec. 191.005. EFFECT OF COPY. If made and recorded as provided by law, a transcribed record, a translation of a Spanish archive, a rerecorded deed, any other instrument required by law to be recorded, or a certified copy of such a record has the same effect as the original record. (V.A.C.S. Art. 6590.)

Sec. 191.006. PUBLIC ACCESS TO RECORDS. (a) All records belonging to the office of the county clerk shall be open to the public at all reasonable times. A member of the public may make a copy of any of the records.

(b) The county shall furnish suitable means for the public quickly and easily to locate and project onto a viewing device the complete image of a microfilmed record. The viewing device must project an image that is at least as large as the size of the original. (V.A.C.S. Art. 1941(a), Sec. 5 (part); Art. 1945.)

CHAPTER 192. INSTRUMENTS TO BE RECORDED BY COUNTIES

Sec. 192.001. GENERAL ITEMS

Sec. 192.002. MILITARY DISCHARGE RECORDS

Sec. 192.003. RECORDS OF NEW OR ENLARGED COUNTY

Sec. 192.004. LIEN INSTRUMENTS

Sec. 192.005. CERTAIN PROBATE RECORDS

Sec. 192.006. COUNTY COURT RECORDS

CHAPTER 192. INSTRUMENTS TO BE RECORDED BY COUNTIES

Sec. 192.001. GENERAL ITEMS. The county clerk shall record each deed, mortgage, or other instrument that is required or permitted by law to be recorded. (V.A.C.S. Arts. 1941 (part), 6591 (part).)

Sec. 192.002. MILITARY DISCHARGE RECORDS. (a) The county clerk shall record the official discharge of persons who after 1915 have served as members of the United States armed forces, the United States armed forces reserve, or an armed forces auxiliary.

(b) The county clerk may not charge a fee for the recording and keeping of a military discharge record. (V.A.C.S. Art. 1939.)

Sec. 192.003. RECORDS OF NEW OR ENLARGED COUNTY. (a) If a new county is created in whole or in part from the territory of another county or if territory is added to an existing county from another county, the commissioners court of the new county or the enlarged county shall require the county clerk to rerecord each deed, mortgage, conveyance, encumbrance, or muniment of title that affects or relates to real property in the territory taken from the other county and that is recorded in the other county. If the territory is acquired from more than one county, the clerk shall maintain separate sets of

records for the records obtained from each county. The records shall be indexed and arranged as provided by law.

(b) After the records are legibly rerecorded, the county clerk or the clerk's deputies who rerecorded them shall compare them with the original record. The county clerk or the clerk's deputies who rerecorded the records shall certify to the correctness of the records under their official oath and shall impress the commissioners court's seal on the records. (V.A.C.S. Arts. 6578, 6579.)

Sec. 192.004. LIEN INSTRUMENTS. The county clerk shall record separately from a deed or other conveyance each deed of trust, mortgage, or judgment that is required to be recorded to create a judgment lien and every other instrument that is intended to create a lien. (V.A.C.S. Art. 6601.)

Sec. 192.005. CERTAIN PROBATE RECORDS. The commissioners court of a county may require the county clerk to record any previously unrecorded probate records if the commissioners court determines that the recording is necessary. (V.A.C.S. Art. 6574a.)

Sec. 192.006. COUNTY COURT RECORDS. (a) The county clerk is the custodian of the records of the county court in civil and criminal cases and in matters of probate. The county clerk shall record each act and proceeding of the county court, record under direction of the judge each judgment of the court, and record the issuance of and return on each execution issued by the court.

(b) The county clerk shall keep the records of the county court properly indexed, arranged, and preserved. (V.A.C.S. Arts. 1942, 1943.)

CHAPTER 193. RECORDING AND INDEXING BY COUNTIES

- Sec. 193.001. MANNER OF RECORDING
- Sec. 193.002. CLASSIFICATION AND INDEX OF RECORDS NOT ON MICROFILM
- Sec. 193.003. INDEX TO REAL PROPERTY RECORDS
- Sec. 193.004. INDEX TO JUDGMENTS
- Sec. 193.005. INDEXES TO OTHER RECORDS
- Sec. 193.006. TRANSCRIBING DEFACED OR WORN RECORDS
- Sec. 193.007. TRANSLATION OF COUNTY RECORDS

CHAPTER 193. RECORDING AND INDEXING BY COUNTIES

Sec. 193.001. MANNER OF RECORDING. (a) The county clerk shall record instruments filed for recording in the order that they are filed. The clerk shall record each instrument with any acknowledgment, proof, affidavit, or certificate that is attached to it.

(b) The clerk shall note at the foot of the record the date and time that the instrument was filed for recording.

(c) If an instrument that is filed for recording is acknowledged or proved in the manner prescribed by law for record, the clerk shall make a record of the names of the parties to the instrument in alphabetical order, the date of the instrument, the nature of the instrument, and the time that the instrument was filed. If required, the clerk shall give the person who files the instrument a receipt stating this information.

(d) The clerk shall certify under the clerk's signature and seal of office the date and time that the instrument is recorded and the specific location in the records at which the instrument is recorded. After recording the instrument, the clerk shall deliver the instrument to the person who is entitled to it. (V.A.C.S. Arts. 6594, 6595 (part), 6596 (part).)

Sec. 193.002. CLASSIFICATION AND INDEX OF RECORDS NOT ON MICROFILM. (a) If a county clerk or clerk of a county court has not adopted the system of keeping records by a microfilm or microphotographic process as provided by Section 194.002, that official may divide the records in the official's custody and control into the same classes of records that are prescribed by Section 194.003 for records maintained under Chapter 194. The official also may consolidate records in the manner allowed under Section 194.003 for certain records maintained under Chapter 194.

(b) Classes of records maintained as provided by this section shall be indexed and cross-indexed, to the extent practicable, as required by Sections 194.006, 194.007, and 194.008 for records maintained under Chapter 194. (V.A.C.S. Art. 1941b.)

Sec. 193.003. INDEX TO REAL PROPERTY RECORDS. (a) The county clerk shall maintain a well-bound alphabetical index to all recorded deeds, powers of attorney, mortgages, and other instruments relating to real property. The index must state the specific location in the records at which the instruments are recorded.

(b) The index must be a cross-index that contains the names of the grantors and grantees in alphabetical order. If a deed is made by a sheriff, the index entry must contain the name of the sheriff and the defendant in execution. If a deed is made by an executor, administrator, or guardian, the index entry must contain the name of that person and the name of the person's testator, intestate, or ward. If a deed is made by an attorney, the index entry must contain the name of the attorney and the attorney's constituents. If a deed is made by a commissioner or trustee, the index entry must contain the name of the commissioner or trustee and the name of the person whose estate is conveyed.

(c) This section applies only to records for which an alternative method of classification and indexing has not been adopted under Section 193.002 or Chapter 194. (V.A.C.S. Arts. 6597, 6598.)

Sec. 193.004. INDEX TO JUDGMENTS. (a) The county clerk shall maintain a well-bound alphabetical index to all suits filed in the county court. The index must be a cross-index that states in full and in alphabetical order the names of the parties to a filed suit. The index must state opposite each name the specific location in the records at which the judgment in the case is recorded.

(b) This section applies only to records for which an alternative method of classification and indexing has not been adopted under Section 193.002 or Chapter 194. (V.A.C.S. Art. 1944.)

Sec. 193.005. INDEXES TO OTHER RECORDS. (a) In a manner similar to that by which the index to real property records is maintained, the county clerk shall maintain an alphabetical index to all recorded instruments relating to goods, chattels, and other personal property, marriage contracts, and other instruments authorized or permitted to be recorded in the clerk's office.

(b) The clerk also shall maintain a similar index of the records of official bonds. The index for official bonds must include the names of the officers appointed, the names of the obligors on the recorded bonds, and a reference to the specific location in the records where the bonds are recorded.

(c) This section applies only to records for which an alternative method of classification and indexing has not been adopted under Section 193.002 or Chapter 194. (V.A.C.S. Art. 6599.)

Sec. 193.006. TRANSCRIBING DEFACED OR WORN RECORDS. (a) If records or indexes of the county become defaced, worn, or otherwise are of a condition that endangers their preservation in a safe and legible form, the commissioners court of the county shall procure the necessary well-bound books and shall require the officer who has custody of the records or indexes to transcribe them into the new books to perfectly conform to the original records as indexed. The designation of the transcribed documents shall be the same as the designation of the originals. With the assistance of a sworn deputy, the officer who transcribes the documents shall carefully compare the transcription with the originals.

(b) After the documents have been correctly transcribed, the officer and any assisting deputy shall officially certify as to the correctness of the documents in each volume on the last page of the volume and shall list the number of pages contained in the volume. The last page must be impressed with the seal of the commissioners court.

(c) If documents of the county surveyor's office are transcribed as provided by this section, the surveyor shall verify the correctness of the transcribed documents and certify by affidavit as to their correctness before the county clerk, who shall impress the affidavit with the seal of the county court.

(d) The county clerk shall carefully maintain as an archive of the clerk's office the originals of the records or indexes transcribed as provided by this section.

(e) This section does not apply to documents microfilmed or microphotographed as provided by Chapter 194. (V.A.C.S. Arts. 6574, 6575, 6576, 6577.)

Sec. 193.007. TRANSLATION OF COUNTY RECORDS. (a) The commissioners court of a county may require the county clerk to have translated into English and recorded all or part of a county record or archive that is written in Spanish and that relates to a title to real property.

(b) The court may not contract to pay more than 15 cents for each 100 words for the translation and the recording.

(c) An English translation prepared and recorded under this section has the same effect as if the instrument were originally written in English. A person may use a certified copy of the English translation for all purposes for which the original instrument or a certified copy of the original instrument may be used.

(d) The translations prepared under this section become permanent county records on recording by the county clerk. (V.A.C.S. Arts. 6580, 6581.)

CHAPTER 194. MICROFILMING OF COUNTY RECORDS

- Sec. 194.001. DEFINITION
- Sec. 194.002. AUTHORIZATION OF MICROFILM SYSTEM
- Sec. 194.003. OFFICIAL PUBLIC RECORDS
- Sec. 194.004. RECORDS OF RELEASES AND OTHER ACTIONS
- Sec. 194.005. EFFECTIVE AS ORIGINAL RECORD
- Sec. 194.006. INDEX REQUIREMENTS
- Sec. 194.007. REVISION OF INDEX
- Sec. 194.008. REGISTERS
- Sec. 194.009. RULES AND CONTROL OVER MICROFILMING
- Sec. 194.010. STANDARDS FOR FILMING
- Sec. 194.011. RECORD REQUIREMENTS FOR ROLLS OF MICROFILM
- Sec. 194.012. RECORD REQUIREMENTS FOR DISCRETE GROUPS OF MICROFILM IMAGES
- Sec. 194.013. EXTRA COPIES; SECURITY RECORD
- Sec. 194.014. INSPECTION FOR ACCURACY
- Sec. 194.015. RETURN OF ORIGINAL INSTRUMENTS
- Sec. 194.016. MICROFILM OF COURT RECORDS
- Sec. 194.017. DISPOSAL OF ORIGINALS
- Sec. 194.018. VALIDITY OF EARLIER MICROFILM RECORDS

CHAPTER 194. MICROFILMING OF COUNTY RECORDS

Sec. 194.001. DEFINITION. In this chapter, "official public record" means one of the classes of microfilm records enumerated in Section 194.003(b). (V.A.C.S. Art. 1941(a), Sec. 2(a) (part).)

Sec. 194.002. AUTHORIZATION OF MICROFILM SYSTEM. (a) A county clerk or clerk of a county court has the individual discretion to adopt and exclusively use a microfilm or microphotographic process to:

- (1) record, preserve, and protect public records in the clerk's custody and control;
- (2) obtain economical recording costs for public records;
- (3) reduce and conserve the space required to file, store, and protect public records;
- (4) provide for the efficient retrieval of public records; or
- (5) achieve similar purposes.

(b) A process adopted under this section must accurately and permanently copy or reproduce, or form a medium for copying or reproducing, an original record on film.

(c) Subject to the requirements of this chapter, a clerk may use the process authorized by this section instead of any other method authorized or required for filing, registering,

or recording an instrument that is authorized or required to be filed, registered, or recorded in the clerk's office. (V.A.C.S. Art. 1941(a), Sec. 1.)

Sec. 194.003. OFFICIAL PUBLIC RECORDS. (a) The county clerk or clerk of a county court shall divide the instruments received for filing, registration, or recording into seven classes of records for recording by the microfilm or microphotographic process.

(b) The seven classes of microfilm records are:

(1) records relating to real property, known as "Official Public Records of Real Property";

(2) records relating to receivables, chattels, and personal property, known as "Official Public Records of Personal Property and Chattels";

(3) records relating to probate matters, known as "Official Public Records of Probate Courts";

(4) records relating to county civil court matters, known as "Official Public Records of County Civil Courts";

(5) records relating to county criminal court matters, known as "Official Public Records of County Criminal Courts";

(6) records relating to matters in the commissioners court, known as "Official Public Records of Commissioners Court"; and

(7) records relating to an individual, a business entity, or a governmental agency, other than a property record or a court record, known as "Official Public Records of Governmental, Business, and Personal Matters."

(c) An instrument that is recorded and indexed on microfilm in an official public record imparts the same notice as if it were recorded in separate books or films and as if it were recorded in each of the classes of official public records.

(d) The clerk shall record each class of record on a separate series of rolls of microfilm or in a separate series of discrete groups of discrete microfilm images. Each roll of microfilm or separate series of groups of microfilm images is considered to be a bound volume or book. Each image on a roll of microfilm or in a discrete group of microfilm images must be properly identified by a number by which it may be located quickly and easily and that shall be used for indexing purposes as provided by this chapter.

(e) The clerk may consolidate the records described by Subsections (b)(1) and (7) into a single class, known as "Official Public Records." (V.A.C.S. Art. 1941(a), Secs. 2(a), (b), (d); Sec. 5 (part).)

Sec. 194.004. RECORDS OF RELEASES AND OTHER ACTIONS. (a) To release, transfer, assign, or take another action relating to an instrument that is recorded as an official public record, a person must file, register, or record another instrument relating to the action in the manner provided for the original instrument.

(b) An entry, including a marginal entry, may not be made on a previously made record or index to indicate the new action. (V.A.C.S. Art. 1941(a), Sec. 2(c).)

Sec. 194.005. EFFECTIVE AS ORIGINAL RECORD. (a) A microfilm record created under this chapter shall be treated as an original record for all purposes. A court or administrative agency of this state shall accept such a microfilm record as an original record.

(b) A transcript, exemplification, copy, or other film or paper reproduction of an image of a microfilm record shall be treated as a certified copy of the original instrument for all purposes if the microfilm reproduction is issued and certified by the clerk who is the custodian of the record. A court or administrative agency of this state shall accept such a microfilm reproduction as a certified copy. (V.A.C.S. Art. 1941(a), Sec. 3.)

Sec. 194.006. INDEX REQUIREMENTS. (a) An instrument that is recorded in an official public record must be alphabetically indexed and cross-indexed in the indexes to that public record under the names of the parties identified in the instrument.

(b) The index entry for an instrument recorded in the official public records of real property, personal property and chattels, or governmental, business, and personal matters must give:

- (1) the names of the parties to the instrument;
- (2) a brief description of the nature of the instrument, including the name of the record in which the instrument would be recorded under other laws relating to bound volume records and other records in the county clerk's office;
- (3) the time and date of the filing;
- (4) the location of the microfilm image of the instrument by roll or group number and by image number, or by another suitable method;
- (5) a brief description of the property, if any;
- (6) a brief description of any lien or mortgage on the property;
- (7) any reference to formerly recorded information about the property; and
- (8) any other information that properly identifies each index entry as relating to the particular type of record to which the index applies.

(c) The index entry for an instrument recorded in the official public records of probate courts, county civil courts, county criminal courts, or the commissioners court must give information that would assist in further identifying the cause or action, including:

- (1) the names of the parties to the action, except an action in commissioners court;
- (2) the nature of the cause or action;
- (3) the date the cause or action was opened or taken;
- (4) the court in which the cause or action lies;
- (5) the docket number; and
- (6) the location of the microfilm image of the instrument by roll or group number and by image number, or by another suitable method. (V.A.C.S. Art. 1941(a), Secs. 4(a), (b), (c).)

Sec. 194.007. REVISION OF INDEX. (a) The indexes must be periodically revised throughout the year to obtain a complete alphabetical index to each of the classes of official public records for each calendar year.

(b) The clerk may not be required to make a marginal entry to a previously completed index. (V.A.C.S. Art. 1941(a), Secs. 4(d), (g).)

Sec. 194.008. REGISTERS. (a) A current register of court docket numbers must be maintained in numerical order for each type of court record included in an official public record.

(b) Additional registers of file numbers that are of assistance to the public must be maintained.

(c) An entry in a register maintained under this section must include essentially the same information as is included in the equivalent index entry under Section 194.006. (V.A.C.S. Art. 1941(a), Secs. 4(e), (f).)

Sec. 194.009. RULES AND CONTROL OVER MICROFILMING. (a) If a state public records commission is authorized by law, all microfilming shall be done in accordance with the rules adopted by that commission and under that commission's general supervision.

(b) If the commission is not authorized, the county clerk of each county shall adopt rules relating to, and exercise control over, the microfilming done in the county clerk's office in accordance with the requirements established by this chapter. (V.A.C.S. Art. 1941(a), Sec. 5 (part).)

Sec. 194.010. STANDARDS FOR FILMING. (a) If a state public records commission is created, an original negative roll and an original negative discrete image of a microfilm record must meet the requirements of that commission relating to archival quality, density, resolution, and definition. If that commission is not created, a microfilm record must meet such requirements of the United States Bureau of Standards.

(b) A camera used for microfilming must meet or exceed the then current requirements of the United States Bureau of Standards for the documentation of permanent records.

(c) An image on a roll of microfilm, and a discrete microfilm image of a group of discrete images, must be of a size that may be projected onto a view screen without distortion and with clear legibility. The projected image must be at least as large as the original instrument. (V.A.C.S. Art. 1941(a), Sec. 5 (part).)

Sec. 194.011. RECORD REQUIREMENTS FOR ROLLS OF MICROFILM. (a) To be an official original record, a roll of microfilm must meet the requirements of this section.

(b) The first image on a roll of microfilm must be the image of a title page that gives:

- (1) the name of the official public record;
- (2) the image identification number of the title page;
- (3) the date of the filming; and
- (4) a certificate of the county clerk.

(c) The last image on a roll of microfilm must be of a certificate of legality and authenticity that states: "The microfilming of the images between the title page and the certificate of legality and authenticity has been in strict accordance with Chapter 194, Local Government Code; each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; and no splice was made in the original negative film between the title page and this certificate."

(d) The image of the certificate of legality and authenticity must be followed by the same information required under Subsection (b) to be on the title page, except that the image identification number of the page of the certificate of legality and authenticity must be included following the image identification number of the title page.

(e) If the camera operator is a deputy county clerk, the camera operator must sign the certificates of the county clerk required for the first and last images on the roll. If the camera operator is not a deputy county clerk, the certificates must be signed by the county clerk personally.

(f) The certificate of legality and authenticity appearing on a roll of microfilm prepared before September 1, 1987, may refer to Article 1941(a), Vernon's Texas Civil Statutes, instead of Chapter 194, Local Government Code. (V.A.C.S. Art. 1941(a), Sec. 5 (part).)

Sec. 194.012. RECORD REQUIREMENTS FOR DISCRETE GROUPS OF MICROFILM IMAGES. (a) To be an official original record, a separate and individual image of a discrete group of discrete images of a microfilm record must meet the requirements of this section.

(b) The first image of a discrete group must be the image of a title page that gives:

- (1) the name of the official public record;
- (2) the image identification number of the title page;
- (3) the date of the filming; and
- (4) a certificate of the county clerk.

(c) The last image of the discrete group must be of a certificate of legality and authenticity that states: "The discrete numbered microfilm images between the title page and the certificate of legality and authenticity have been made in strict accordance with Chapter 194, Local Government Code; each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; and no microfilm image or images were substituted for any original discrete microfilm image between the title page and this certificate."

(d) The image of the certificate of legality and authenticity must be followed by the same information required under Subsection (b) to be on the title page, except that the

image identification number of the page of the certificate of legality and authenticity must be included following the image identification number of the title page.

(e) If the camera operator is a deputy county clerk, the camera operator shall sign the certificates of the county clerk required for the first and last images of the group of discrete images. If the camera operator is not a deputy county clerk, the certificates must be signed by the county clerk personally.

(f) The certificate of legality and authenticity appearing in a discrete group of discrete images of a microfilm record prepared before September 1, 1987, may refer to Article 1941(a), Vernon's Texas Civil Statutes, instead of Chapter 194, Local Government Code. (V.A.C.S. Art. 1941(a), Sec. 5 (part).)

Sec. 194.013. EXTRA COPIES; SECURITY RECORD. (a) At least one extra negative copy of each roll of microfilm or each discrete image of a group of discrete images shall be made. The original negative of each roll or discrete image of a group of images is the security record. Unless otherwise provided by statute, a security record must be stored in a fireproof, burglarproof safe or locker at a distance from the courthouse.

(b) One negative copy of each roll of microfilm or each discrete image of a group of discrete images shall be used only to make positive film prints.

(c) Negative or positive copies may be used on projection devices or microfilm readers. (V.A.C.S. Art. 1941(a), Sec. 5 (part).)

Sec. 194.014. INSPECTION FOR ACCURACY. (a) If the original paper record is not retained in the files of the county clerk, the county clerk or clerk of the county court, as appropriate, shall inspect each filmed image on each roll of microfilm or in each group of discrete images and check against the original for accuracy and clarity. To check the accuracy and clarity, the clerk may produce paper records from the microfilm.

(b) If a microfilm image is defective, the original paper record shall be microfilmed again on a subsequent roll or as a discrete image of a discrete group of images until an acceptable image is obtained.

(c) It is not necessary to reproduce a record if that record is transferred to the custody of the state librarian under state law. (V.A.C.S. Art. 1941(a), Sec. 6(a).)

Sec. 194.015. RETURN OF ORIGINAL INSTRUMENTS. The county clerk shall return an original record that is not involved in or related to a court matter or proceeding to the party who filed it for record if the record has been microfilmed and the microfilm has passed the inspection for accuracy and clarity required under Section 194.014. (V.A.C.S. Art. 1941(a), Sec. 6(b).)

Sec. 194.016. MICROFILM OF COURT RECORDS. (a) An original instrument that relates to a court matter or proceeding and that is recorded on microfilm must be retained in the files of the docket to which it relates until the docket is closed by a written order of the court.

(b) After an order closing the docket, the records of the docket must be microfilmed in time sequence in order to provide all of the records in a continuous sequence of discrete images either in a group of discrete images or on one roll of microfilm. (V.A.C.S. Art. 1941(a), Sec. 6(c).)

Sec. 194.017. DISPOSAL OF ORIGINALS. The commissioners court of a county may authorize by order the disposal of an original paper record from which a microfilm record is made if the county clerk certifies to the court that:

(1) the original negative microfilm of the record fully meets the requirements of the United States Bureau of Standards for archival quality, density, resolution, and definition; and

(2) prints from that negative have been satisfactorily used by the public for at least five years. (V.A.C.S. Art. 1941(a), Sec. 6(d).)

Sec. 194.018. VALIDITY OF EARLIER MICROFILM RECORDS. (a) An original negative microfilm record that is of archival quality or is made into negative film of archival quality, that was in the office of a county clerk on June 14, 1971, and that is certified by the county clerk, is an original record for all purposes.

(b) Such a microfilm record shall be accepted as an original record by a court or administrative agency of this state. (V.A.C.S. Art. 1941(a), Sec. 5 (part).)

[Chapters 195–199 reserved for expansion]

CHAPTER 200. MISCELLANEOUS RECORDS PROVISIONS
AFFECTING COUNTIES

Sec. 200.001. DESTRUCTION OF BEER LICENSES

CHAPTER 200. MISCELLANEOUS RECORDS PROVISIONS
AFFECTING COUNTIES

Sec. 200.001. DESTRUCTION OF BEER LICENSES. (a) At any time following one year after the expiration date of a beer license, the county clerk and county tax assessor-collector of a county with a population of 800,000 or more shall destroy the application for the license, office copies of notices issued on the application, and copies of the license that are on file in their respective offices.

(b) The county clerk shall retain as a public record a docket sheet kept by the county clerk that includes:

- (1) the name of the business that required a beer license;
- (2) the name of the owner;
- (3) the address of the premises where the license was used;
- (4) the class of license; and
- (5) other relevant information. (V.A.C.S. Art. 6581a.)

SUBTITLE C. RECORDS PROVISIONS APPLYING TO MORE THAN ONE
TYPE OF LOCAL GOVERNMENT

CHAPTER 201. PHOTOGRAPHIC DUPLICATION OF RECORDS BY MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

- Sec. 201.001. DEFINITION
Sec. 201.002. EXEMPTIONS
Sec. 201.003. AUTHORIZATION OF PHOTOGRAPHIC DUPLICATION
Sec. 201.004. STANDARDS FOR DUPLICATION
Sec. 201.005. CONTROL AND APPROVAL OF DUPLICATION
Sec. 201.006. COMPENSATION FOR APPROVAL
Sec. 201.007. EFFECTIVE AS ORIGINAL RECORD
Sec. 201.008. ACCESS TO DUPLICATES
Sec. 201.009. DESTRUCTION OF ORIGINAL RECORDS

SUBTITLE C. RECORDS PROVISIONS APPLYING TO MORE THAN ONE
TYPE OF LOCAL GOVERNMENT

CHAPTER 201. PHOTOGRAPHIC DUPLICATION OF RECORDS BY MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

Sec. 201.001. DEFINITION. In this chapter, "photographic" includes miniature photographic, microphotographic, photostatic, and microfilm. (New.)

Sec. 201.002. EXEMPTIONS. This chapter does not apply to records maintained under Chapter 181 or 194. (V.A.C.S. Art. 6574c, Sec. 4; Sec. 2, Ch. 886, Acts 62nd Leg., R.S., 1971 (part).)

Sec. 201.003. AUTHORIZATION OF PHOTOGRAPHIC DUPLICATION. The governing body of a political subdivision may provide for and order the duplication, by a photographic process that accurately and legibly copies and reproduces, or forms a medium for copying and reproducing, all public records maintained by the political subdivision if the governing body determines that the duplication is necessary to:

- (1) record, preserve, and protect the public records;
- (2) reduce space required to file, store, and preserve public records; or
- (3) achieve a similar purpose. (V.A.C.S. Art. 6574b, Sec. 1.)

Sec. 201.004. STANDARDS FOR DUPLICATION. All materials and all processes of development, fixation, and washing used in the photographic duplication of public records under this chapter must be of a quality approved by the National Bureau of Standards for permanent photographic records. (V.A.C.S. Art. 6574b, Sec. 2.)

Sec. 201.005. CONTROL AND APPROVAL OF DUPLICATION. The officer responsible for the preservation of public records for which photographic duplication is provided under this chapter shall control and direct the duplication and shall check, approve, and certify the duplicates as being accurate and legible copies of the original records from which the duplicates were made. (V.A.C.S. Art. 6574b, Sec. 3.)

Sec. 201.006. COMPENSATION FOR APPROVAL. The governing body of a political subdivision may, during or after photographic duplication under this chapter, pay a reasonable compensation to the officer required under Section 201.005 to check, approve, and certify the accuracy and legibility of the photographic duplicates. The compensation shall be reported as a fee of office and accounted for as provided by law. (V.A.C.S. Art. 6574b, Sec. 6.)

Sec. 201.007. EFFECTIVE AS ORIGINAL RECORD. (a) A photographic duplicate created under this chapter shall be treated as an original record for all purposes, including introduction in a court or before an administrative agency.

(b) A transcript, exemplification, or certified copy of a photographic duplicate created under this chapter shall be treated for all purposes, including introduction in a court or before an administrative agency, as a transcript, exemplification, or certified copy of the original record. (V.A.C.S. Art. 6574b, Sec. 7.)

Sec. 201.008. ACCESS TO DUPLICATES. Photographic duplicates created under this chapter shall be placed in conveniently accessible files. Provisions shall be made for the preservation, use, examination, exhibition, projection, and enlargement of the photographic duplicates on request during regular office hours. (V.A.C.S. Art. 6574b, Sec. 4 (part).)

Sec. 201.009. DESTRUCTION OF ORIGINAL RECORDS. (a) Except as provided by this section, an original public record from which a photographic duplicate has been created under this chapter may be destroyed or otherwise disposed of as directed by order of the governing body of the political subdivision.

(b) An original public record may not be destroyed or otherwise disposed of unless the time for filing legal proceedings based on the record has expired.

(c) Notice of a proposed destruction or disposition of an original public record must be given to the state librarian. If the state librarian determines that the record is needed for the Texas State Library, the record shall be transferred to the state library as provided by Article 5439, Revised Statutes.

(d) A minute book of a court or political subdivision may not be destroyed or disposed of under this chapter. (V.A.C.S. Art. 6574b, Secs. 4 (part), 5.)

[Chapters 202–210 reserved for expansion]

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES,
AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 211. MUNICIPAL ZONING AUTHORITY

SUBCHAPTER A. GENERAL ZONING REGULATIONS

- Sec. 211.001. PURPOSE
- Sec. 211.002. ADOPTION OF REGULATION OR BOUNDARY INCLUDES AMENDMENT OR OTHER CHANGE
- Sec. 211.003. ZONING REGULATIONS GENERALLY
- Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN
- Sec. 211.005. DISTRICTS
- Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES
- Sec. 211.007. ZONING COMMISSION
- Sec. 211.008. BOARD OF ADJUSTMENT
- Sec. 211.009. AUTHORITY OF BOARD
- Sec. 211.010. APPEAL TO BOARD
- Sec. 211.011. JUDICIAL REVIEW OF BOARD DECISION
- Sec. 211.012. ENFORCEMENT; PENALTY; REMEDIES
- Sec. 211.013. CONFLICT WITH OTHER LAWS; EXCEPTIONS

[Sections 211.014–211.020 reserved for expansion]

SUBCHAPTER B. ADDITIONAL ZONING REGULATIONS IN MUNICIPALITY
WITH POPULATION OF MORE THAN 290,000

- Sec. 211.021. ADDITIONAL ZONING REGULATIONS

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES,
AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 211. MUNICIPAL ZONING AUTHORITY

SUBCHAPTER A. GENERAL ZONING REGULATIONS

Sec. 211.001. PURPOSE. The powers granted under this subchapter are for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance. (V.A.C.S. Art. 1011a (part).)

Sec. 211.002. ADOPTION OF REGULATION OR BOUNDARY INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this subchapter to the adoption of a zoning regulation or a zoning district boundary includes the amendment, repeal, or other change of a regulation or boundary. (New.)

Sec. 211.003. ZONING REGULATIONS GENERALLY. (a) The governing body of a municipality may regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density; and
- (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes.

(b) In the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures.

(c) The governing body of a home-rule municipality may also regulate the bulk of buildings. (V.A.C.S. Art. 1011a (part); Art. 1175, Subdiv. 26 (part).)

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (1) lessen congestion in the streets;
- (2) secure safety from fire, panic, and other dangers;
- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population; or
- (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements. (V.A.C.S. Art. 1011c (part).)

Sec. 211.005. DISTRICTS. (a) The governing body of a municipality may divide the municipality into districts of a number, shape, and size the governing body considers best for carrying out this subchapter. Within each district, the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) Zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality. (V.A.C.S. Arts. 1011b, 1011c (part); Art. 1175, Subdiv. 26 (part).)

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

- (1) the area of the lots or land covered by the proposed change; or
- (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied. (V.A.C.S. Arts. 1011d, 1011e, 1011e-1, Sec. (a).)

Sec. 211.007. ZONING COMMISSION. (a) To exercise the powers authorized by this subchapter, the governing body of a home-rule municipality shall, and the governing body of a general-law municipality may, appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. If the municipality has a municipal planning commission at the time of implementation of this subchapter, the governing body may appoint that commission to serve as the zoning commission.

(b) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the governing body. The governing body may not hold a public hearing until it receives the final report of the zoning commission unless the governing body by ordinance provides that a public hearing is to be held, after the notice required by Section 211.006(a), jointly with a public hearing required to be held by the zoning commission. In either case, the governing body may not take action on the matter until it receives the final report of the zoning commission.

(c) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given in the manner provided by Section 211.006(a).

(d) The governing body of a home-rule municipality may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of a public hearing held jointly by the governing body and the zoning commission. If notice requirements are prescribed under this subsection, the notice requirements prescribed by Subsections (b) and (c) and by Section 211.006(a) do not apply.

(e) If a general-law municipality exercises zoning authority without the appointment of a zoning commission, any reference in a law to a municipal zoning commission or planning commission means the governing body of the municipality. (V.A.C.S. Arts. 1011e-1, Sec. (b), 1011f.)

Sec. 211.008. BOARD OF ADJUSTMENT. (a) The governing body of a municipality may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the governing body may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

(b) A board of adjustment must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of four alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a

regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(d) Each case before the board of adjustment must be heard by at least four members.

(e) The board shall adopt rules in accordance with any ordinance adopted under this subchapter. Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(f) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records. (V.A.C.S. Arts. 1011g(a), (b), (c).)

Sec. 211.009. AUTHORITY OF BOARD. (a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so; and

(3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(c) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or

(3) authorize a variation from the terms of a zoning ordinance. (V.A.C.S. Arts. 1011g(g), (h), (i).)

Sec. 211.010. APPEAL TO BOARD. (a) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property.

In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time. (V.A.C.S. Arts. 1011g(d), (e), (f).)

Sec. 211.011. JUDICIAL REVIEW OF BOARD DECISION. (a) Any of the following persons may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

- (1) a person aggrieved by a decision of the board;
- (2) a taxpayer; or
- (3) an officer, department, board, or bureau of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time by which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision. (V.A.C.S. Arts. 1011g(j), (k), (l), (m), (n).)

Sec. 211.012. ENFORCEMENT; PENALTY; REMEDIES. (a) The governing body of a municipality may adopt ordinances to enforce this subchapter or any ordinance or regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an ordinance or regulation adopted under this subchapter. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the governing body. The governing body may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter or an ordinance or regulation adopted under this subchapter, the appropriate municipal authority, in addition to other remedies, may institute appropriate action to:

- (1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- (2) restrain, correct, or abate the violation;

- (3) prevent the occupancy of the building, structure, or land; or
- (4) prevent any illegal act, conduct, business, or use on or about the premises. (V.A.C.S. Art. 1011h.)

Sec. 211.013. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local ordinance or regulation, the regulation adopted under this subchapter controls. If the other statute or local ordinance or regulation imposes higher standards, that statute, ordinance, or regulation controls.

(b) This subchapter does not authorize the governing body of a municipality to require the removal or destruction of property that exists at the time the governing body implements this subchapter and that is actually and necessarily used in a public service business.

(c) This subchapter does not apply to a building, other structure, or land under the control, administration, or jurisdiction of a state or federal agency. (V.A.C.S. Arts. 1011c (part), 1011j; Sec. 2, Ch. 764, Acts 68th Leg., R.S., 1983.)

[Sections 211.014–211.020 reserved for expansion]

SUBCHAPTER B. ADDITIONAL ZONING REGULATIONS IN MUNICIPALITY WITH POPULATION OF MORE THAN 290,000

Sec. 211.021. ADDITIONAL ZONING REGULATIONS. (a) The governing body of a municipality with a population of more than 290,000 that has adopted a comprehensive zoning ordinance under Subchapter A may, by ordinance, divide the municipality into neighborhood zoning areas after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(b) The mayor of the municipality, with the approval of the governing body, may appoint a neighborhood advisory zoning council for each of the neighborhood zoning areas. Each zoning council must be composed of five citizens who reside in the neighborhood zoning area. A zoning council member is appointed for a term of two years.

(c) Each neighborhood advisory zoning council shall provide the zoning commission with information, advice, and recommendations relating to each application filed with the zoning commission for zoning regulation changes that affect property within that neighborhood zoning area.

(d) On the filing of a zoning change application with the zoning commission, the zoning commission shall provide the appropriate neighborhood advisory zoning council with a copy of the application. The zoning council shall conduct a public hearing on the application and must publish notice of the time and place of the hearing in an official newspaper or a newspaper of general circulation in the municipality before the 10th day before the date of the hearing.

(e) At or before the zoning commission's hearing on the zoning change application, the neighborhood advisory zoning council shall submit to the zoning commission any information, advice, and recommendations relating to that application that the zoning council considers proper. The zoning commission may not overrule a recommendation of the zoning council with respect to the disposition of the application unless at least three-fourths of the members of the zoning commission who are present at the meeting vote to overrule the recommendation. (V.A.C.S. Art. 1011k.)

CHAPTER 212. MUNICIPAL REGULATION OF SUBDIVISIONS AND
PROPERTY DEVELOPMENT

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CHAPTER 212. MUNICIPAL REGULATION OF SUBDIVISIONS AND
PROPERTY DEVELOPMENT

SUBCHAPTER A. REGULATION OF SUBDIVISIONS

Sec. 212.001. DEFINITIONS. In this subchapter:

- (1) "Extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42.
- (2) "Plat" includes a replat. (New.)

Sec. 212.002. RULES. After a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality. (V.A. C.S. Art. 974a, Sec. 4 (part).)

Sec. 212.003. EXTENSION OF RULES TO EXTRATERRITORIAL JURISDICTION.
 (a) The governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of the municipal ordinance prescribing rules governing plats and subdivisions of land.

(b) A fine or criminal penalty prescribed by the ordinance does not apply to a violation in the extraterritorial jurisdiction.

(c) The municipality is entitled to appropriate injunctive relief in district court to enjoin a violation of the ordinance in the extraterritorial jurisdiction. (V.A.C.S. Art. 970a, Sec. 4.)

Sec. 212.004. **PLAT REQUIRED.** (a) The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to a municipality, or to lay out suburban, building, or other lots, and to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared.

(b) To be recorded, the plat must:

- (1) describe the subdivision by metes and bounds;
- (2) locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and
- (3) state the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.

(c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

(d) The plat must be filed and recorded with the county clerk of the county in which the tract is located.

(e) This section does not apply to an owner of a tract of land that:

- (1) is located wholly within a municipality with a population of 5,000 or less;
- (2) is divided into parts larger than 2-½ acres; and
- (3) abuts any part of an aircraft runway. (V.A.C.S. Art. 974a, Secs. 1, 1A, 2.)

Sec. 212.005. **APPROVAL BY MUNICIPALITY REQUIRED.** The municipal authority responsible for approving plats must approve a plat that is required to be prepared by Section 212.004 and that satisfies all applicable regulations. (Sec. 12.002(c), Property Code.)

Sec. 212.006. **AUTHORITY RESPONSIBLE FOR APPROVAL GENERALLY.** (a) The municipal authority responsible for approving plats under this subchapter is the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality. The governing body by ordinance may require the approval of the governing body in addition to that of the municipal planning commission.

(b) In a municipality with a population of more than 1.5 million, 25 percent of the membership of the municipal planning commission may be residents of the area outside the limits of the municipality and in which the municipality exercises its authority to approve subdivision plats. (V.A.C.S. Art. 974a, Secs. 3 (part), 3A.)

Sec. 212.007. **AUTHORITY RESPONSIBLE FOR APPROVAL: TRACT IN EXTRATERRITORIAL JURISDICTION OF MORE THAN ONE MUNICIPALITY.** (a) For a tract located in the extraterritorial jurisdiction of more than one municipality, the authority responsible for approving a plat under this subchapter is the authority in the municipality with the largest population that under Section 212.006 has approval responsibility. The governing body of that municipality may enter into an agreement with any other affected municipality or with any other municipality having area that, if unincorporated, would be in the extraterritorial jurisdiction of the governing body's municipality delegating to the other municipality the responsibility for plat approval within specified parts of the affected area.

(b) Either party to an agreement under Subsection (a) may revoke the agreement after 20 years have elapsed after the date of the agreement unless the parties agree to a shorter period.

(c) A copy of the agreement shall be filed with the county clerk. (V.A.C.S. Art. 974a, Sec. 3 (part).)

Sec. 212.008. APPLICATION FOR APPROVAL. A person desiring approval of a plat must apply to and file a copy of the plat with the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality. (V.A.C.S. Art. 974a, Sec. 3 (part).)

Sec. 212.009. APPROVAL PROCEDURE. (a) The municipal authority responsible for approving plats shall act on a plat within 30 days after the date the plat is filed. A plat is considered approved by the municipal authority unless it is disapproved within that period.

(b) If an ordinance requires that a plat be approved by the governing body of the municipality in addition to the planning commission, the governing body shall act on the plat within 30 days after the date the plat is approved by the planning commission or is considered approved by the inaction of the commission. A plat is considered approved by the governing body unless it is disapproved within that period.

(c) If a plat is approved, the municipal authority giving the approval shall endorse the plat with a certificate indicating the approval. The certificate must be signed by:

- (1) the authority's presiding officer and attested by the authority's secretary; or
- (2) a majority of the members of the authority.

(d) If the municipal authority responsible for approving plats fails to act on a plat within the prescribed period, the authority on request shall issue a certificate stating the date the plat was filed and that the authority failed to act on the plat within the period. The certificate is effective in place of the endorsement required by Subsection (c).

(e) The municipal authority responsible for approving plats shall maintain a record of each application made to the authority and the authority's action taken on it. On request of an owner of an affected tract, the authority shall certify the reasons for the action taken on an application. (V.A.C.S. Art. 974a, Sec. 3 (part).)

Sec. 212.010. STANDARDS FOR APPROVAL. The municipal authority responsible for approving plats shall approve a plat if it conforms to:

- (1) the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
- (2) the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
- (3) any rules adopted under Section 212.002. (V.A.C.S. Art. 974a, Sec. 4 (part).)

Sec. 212.011. EFFECT OF APPROVAL ON DEDICATION. (a) The approval of a plat is not considered an acceptance of any proposed dedication and does not impose on the municipality any duty regarding the maintenance or improvement of any dedicated parts until the appropriate municipal authorities make an actual appropriation of the dedicated parts by entry, use, or improvement.

(b) The disapproval of a plat is considered a refusal by the municipality of the offered dedication indicated on the plat. (V.A.C.S. Art. 974a, Secs. 6, 9.)

Sec. 212.012. CONNECTION OF PUBLIC UTILITIES. Within the area covered by a plat, a municipality may not serve or connect any public utilities, including water, sewers, electricity, and gas, that are owned, distributed, or controlled by the municipality, for the use of the owners or purchasers of any part of the tract unless the plat is approved as provided by this subchapter. (V.A.C.S. Art. 974a, Sec. 8.)

Sec. 212.013. VACATING PLAT. (a) The proprietors of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.

(b) If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(c) The county clerk shall write legibly on the vacated plat the word "Vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

(d) On the execution and recording of the vacating instrument, the vacated plat has no effect. (V.A.C.S. Art. 974a, Sec. 5(a).)

Sec. 212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT. A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- (1) is signed and acknowledged by only the owners of the property being replatted;
- (2) is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the municipal authority responsible for approving plats; and
- (3) does not attempt to amend or remove any covenants or restrictions. (V.A.C.S. Art. 974a, Sec. 5(b).)

Sec. 212.015. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS. (a) In addition to compliance with Section 212.014, a replat without vacation of the preceding plat must conform to the requirements of this section if:

- (1) during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
- (2) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(b) Notice of the hearing required under Section 212.014 shall be given before the 15th day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located and by written notice, with a copy of Subsection (c) attached, forwarded by the municipal authority responsible for approving plats to the owners, as indicated on the most recently approved ad valorem tax roll of the municipality's governing body, of all lots in the preceding plat. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality. If the preceding plat contains more than 100 lots, the written notice shall be mailed only to the owners of lots located within 500 feet of the lots to be replatted.

(c) If 20 percent or more of the owners to whom notice is required to be given under Subsection (b) file with the municipal authority responsible for approving plats a written protest of the replatting before or at the hearing, the municipal authority shall require for the replatting the written approval of at least $66\frac{2}{3}$ percent of the owners of all lots in the preceding plat or of the owners of lots located within 500 feet of the lots to be replatted if the preceding plat contains more than 100 lots. In computing percentages of ownership, each lot is considered equal to all other lots regardless of size or number of owners, and the owners of each lot are entitled to cast only one vote per lot.

(d) Compliance with Subsections (b) and (c) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat. (V.A.C.S. Art. 974a, Sec. 5(c).)

Sec. 212.016. AMENDING PLAT. (a) The municipal authority responsible for approving plats may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and the sole purpose of the amending plat is to:

- (1) correct an error in a course or distance shown on the preceding plat;
- (2) add a course or distance that was omitted on the preceding plat;
- (3) correct an error in a real property description shown on the preceding plat;
- (4) indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

- (5) show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (6) correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) correct an error in courses and distances of lot lines between two adjacent lots if:
 - (A) both lot owners join in the application for amending the plat;
 - (B) neither lot is abolished;
 - (C) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (D) the amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - (8) relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
 - (9) relocate one or more lot lines between one or more adjacent lots if:
 - (A) the owners of all those lots join in the application for amending the plat;
 - (B) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (C) the amendment does not increase the number of lots.
- (b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat. (V.A.C.S. Art. 974a, Secs. 5(b) (part), (d).)
- Sec. 212.017. ACCEPTANCE OF PLAT BY COUNTY CLERK; PENALTY. (a) When a plat is presented to the county clerk for filing, the county clerk shall determine whether the plat is subject to this subchapter and, if so, shall determine whether the endorsements required by this subchapter appear on the plat.
- (b) If the required endorsements appear on the plat, the county clerk shall accept the plat for recording, subject to Section 242.001. If the endorsements do not appear, the county clerk shall refuse to accept the plat.
- (c) If a plat does not indicate whether land covered by the plat is in the extraterritorial jurisdiction of the municipality, the county clerk may require the person presenting the plat for recording to file with the clerk an affidavit stating that information.
- (d) A county clerk commits an offense if the clerk or the clerk's deputy files or records a plat in violation of this subchapter.
- (e) A deputy commits an offense if the deputy files or records a plat in violation of this subchapter.
- (f) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200. (V.A.C.S. Art. 974a, Sec. 7.)

[Sections 212.018–212.040 reserved for expansion]

SUBCHAPTER B. REGULATION OF PROPERTY DEVELOPMENT

Sec. 212.041. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to an unzoned municipality with a population of more than 1.5 million whose governing body chooses by ordinance to be covered by this subchapter or chose by ordinance to be covered by the law codified by this subchapter. (V.A.C.S. Art. 974a-3, Sec. 1(1).)

Sec. 212.042. APPLICATION OF SUBCHAPTER A. The provisions of Subchapter A that do not conflict with this subchapter apply to development plats. (V.A.C.S. Art. 974a-3, Sec. 6.)

Sec. 212.043. DEFINITIONS. In this subchapter:

- (1) "Development" means the new construction or the enlargement of any exterior dimension of any building, structure, or improvement.

(2) "Extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42. (V.A.C.S. Art. 974a-3, Secs. 1(2), (3).)

Sec. 212.044. **PLANS, RULES, AND ORDINANCES.** After a public hearing on the matter, the municipality may adopt general plans, rules, or ordinances governing development plats of land within the limits and in the extraterritorial jurisdiction of the municipality to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality. (V.A.C.S. Art. 974a-3, Sec. 3(a) (part).)

Sec. 212.045. **DEVELOPMENT PLAT REQUIRED.** (a) Any person who proposes the development of a tract of land located within the limits or in the extraterritorial jurisdiction of the municipality must have a development plat of the tract prepared in accordance with this subchapter and the applicable plans, rules, or ordinances of the municipality.

(b) A development plat must be prepared by a registered public surveyor as a boundary survey showing:

(1) each existing or proposed building, structure, or improvement or proposed modification of the external configuration of the building, structure, or improvement involving a change of the building, structure, or improvement;

(2) each easement and right-of-way within or abutting the boundary of the surveyed property; and

(3) the dimensions of each street, sidewalk, alley, square, park, or other part of the property intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park, or other part.

(c) New development may not begin on the property until the development plat is filed with and approved by the municipality in accordance with Section 212.047.

(d) If a person is required under Subchapter A or an ordinance of the municipality to file a subdivision plat, a development plat is not required in addition to the subdivision plat. (V.A.C.S. Art. 974a-3, Secs. 1(4); 2(a), (b) (part).)

Sec. 212.046. **RESTRICTION ON ISSUANCE OF BUILDING AND OTHER PERMITS BY MUNICIPALITY, COUNTY, OR OFFICIAL OF OTHER GOVERNMENTAL ENTITY.** The municipality, a county, or an official of another governmental entity may not issue a building permit or any other type of permit for development on lots or tracts subject to this subchapter until a development plat is filed with and approved by the municipality in accordance with Section 212.047. (V.A.C.S. Art. 974a-3, Sec. 2(b) (part).)

Sec. 212.047. **APPROVAL OF DEVELOPMENT PLAT.** The municipality shall endorse approval on a development plat filed with it if the plat conforms to:

(1) the general plans, rules, and ordinances of the municipality concerning its current and future streets, sidewalks, alleys, parks, playgrounds, and public utility facilities;

(2) the general plans, rules, and ordinances for the extension of the municipality or the extension, improvement, or widening of its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and

(3) any general plans, rules, or ordinances adopted under Section 212.044. (V.A.C.S. Art. 974a-3, Sec. 3(a) (part).)

Sec. 212.048. **EFFECT OF APPROVAL ON DEDICATION.** The approval of a development plat is not considered an acceptance of any proposed dedication for public use or use by persons other than the owner of the property covered by the plat and does not impose on the municipality any duty regarding the maintenance or improvement of any purportedly dedicated parts until the municipality's governing body makes an actual appropriation of the dedicated parts by formal acceptance, entry, use, or improvement. (V.A.C.S. Art. 974a-3, Sec. 3(b).)

Sec. 212.049. **BUILDING PERMITS IN EXTRATERRITORIAL JURISDICTION.** This subchapter does not authorize the municipality to require municipal building permits

or otherwise enforce the municipality's building code in its extraterritorial jurisdiction. (V.A.C.S. Art. 974a-3, Sec. 3(a) (part).)

Sec. 212.050. ENFORCEMENT; PENALTY. (a) If it appears that a violation or threat of a violation of this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter exists, the municipality is entitled to appropriate injunctive relief against the person who committed, is committing, or is threatening to commit the violation.

(b) A suit for injunctive relief may be brought in the county in which the defendant resides, the county in which the violation or threat of violation occurs, or any county in which the municipality is wholly or partly located.

(c) In a suit to enjoin a violation or threat of a violation of this subchapter or a plan, rule, ordinance, or other order adopted under this subchapter, the court may grant the municipality any prohibitory or mandatory injunction warranted by the facts including a temporary restraining order, temporary injunction, or permanent injunction.

(d) A person commits an offense if the person violates this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter within the limits of the municipality. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

(e) A suit under this section shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(f) It is no defense to a criminal or civil suit under this section that an agency of government other than the municipality issued a license or permit authorizing the construction, repair, or alteration of any building, structure, or improvement. It also is no defense that the defendant had no knowledge of this subchapter or of an applicable plan, rule, or ordinance. (V.A.C.S. Art. 974a-3, Sec. 4.)

CHAPTER 213. AUTHORITY OF MUNICIPALITIES TO ESTABLISH BUILDING LINES

Sec. 213.001. DEFINITIONS

Sec. 213.002. BUILDING LINES AUTHORIZED

Sec. 213.003. ACTIVITY PROHIBITED WITHIN BUILDING LINE

Sec. 213.004. RESOLUTION OR ORDINANCE

Sec. 213.005. CONDEMNATION OF EASEMENTS AND INTERESTS; ASSESSMENTS

Sec. 213.006. CONDEMNATION OF PROPERTY

CHAPTER 213. AUTHORITY OF MUNICIPALITIES TO ESTABLISH BUILDING LINES

Sec. 213.001. DEFINITIONS. In this chapter:

(1) "Street" means a public highway, boulevard, parkway, square, or street, or a part or side of any of these.

(2) "Structure" means a building or other structure, or a part of a building or other structure. (V.A.C.S. Art. 1105a, Sec. 1; New.)

Sec. 213.002. BUILDING LINES AUTHORIZED. The governing body of a municipality may, by resolution or ordinance, establish a building line on a street in the municipality. (V.A.C.S. Art. 1105a, Secs. 2, 3 (part).)

Sec. 213.003. ACTIVITY PROHIBITED WITHIN BUILDING LINE. In the area between a street and a building line established under this chapter for the street, the erection, re-erection, reconstruction, or substantial repair of a structure is prohibited. (V.A.C.S. Art. 1105a, Sec. 3 (part).)

Sec. 213.004. RESOLUTION OR ORDINANCE. (a) In adopting a resolution or ordinance that establishes a building line, a municipality must follow the same procedure that it is authorized by law to use to acquire land for the opening of streets.

(b) The resolution or ordinance must:

(1) describe the street affected and the location of the building line; and

(2) provide a period, not to exceed 25 years after the date on which the line is established, during which structures extending into the area between the street and the

building line must be brought into conformance with the line. (V.A.C.S. Art. 1105a, Secs. 3 (part), 5 (part).)

Sec. 213.005. CONDEMNATION OF EASEMENTS AND INTERESTS; ASSESSMENTS. (a) A municipality must follow the same procedure that it is authorized by law to use to open streets when the municipality:

(1) institutes and conducts a condemnation proceeding to condemn an easement or interest necessary to establish a building line; or

(2) imposes and collects an assessment based on the benefits arising out of the establishment of a building line against the property owner and property abutting or in the vicinity of the building line.

(b) If, in the condemnation of a tract, the ownership of the tract or the interests in the tract are in controversy or unknown, an award for the tract may be made in bulk and paid into court for the use of the parties owning or interested in the tract as their ownership or interest appears.

(c) When the award and findings of the special commissioners, who are appointed under Chapter 21, Property Code, are filed with the court having jurisdiction over the condemnation proceedings, the award and findings are final and shall be made the judgment of the court. Compensation is due and payable on rendition of the judgment by the court adopting the award. (V.A.C.S. Art. 1105a, Sec. 4.)

Sec. 213.006. CONDEMNATION OF PROPERTY. (a) Before or after expiration of the period for conformance set under Section 213.004(b)(2), a municipality, following the same procedure that it is authorized by law to use to institute condemnation proceedings, may:

(1) remove a structure and condemn property in the area between a street and a building line; and

(2) impose an assessment against property owners and property that is benefitted by the establishment of the building line to the extent of the benefit.

(b) The municipality must provide notice and a hearing to the owner of affected property for the determination of:

(1) additional damages sustained by the removal of a structure or the taking of land in the area between a street and a building line; or

(2) the assessment to be imposed against a property owner and the property. (V.A.C.S. Art. 1105a, Sec. 5 (part).)

CHAPTER 214. MUNICIPAL REGULATION OF STRUCTURES

SUBCHAPTER A. DANGEROUS STRUCTURES

Sec. 214.001. REQUIRING DEMOLITION OR REPAIR OF BUILDING

Sec. 214.002. REQUIRING REMOVAL OF BUILDING OR OTHER STRUCTURE

[Sections 214.003–214.010 reserved for expansion]

SUBCHAPTER B. PLUMBING AND SEWERS

Sec. 214.011. PLUMBING INSPECTOR

Sec. 214.012. SEWERS AND PLUMBING

Sec. 214.013. SEWER CONNECTIONS

Sec. 214.014. DRAINS, SINKS, AND PRIVIES

[Sections 214.015–214.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS POWERS

Sec. 214.901. ENERGY CONSERVATION

Sec. 214.902. RENT CONTROL

CHAPTER 214. MUNICIPAL REGULATION OF STRUCTURES

SUBCHAPTER A. DANGEROUS STRUCTURES

Sec. 214.001. REQUIRING DEMOLITION OR REPAIR OF BUILDING. (a) A Type A general-law municipality may, by ordinance, require the demolition or repair of a building that is:

- (1) dilapidated, substandard, or unfit for human habitation; or
 - (2) a hazard to the public health, safety, and welfare.
- (b) A home-rule municipality may, by ordinance, require the demolition or repair of a building that is:
- (1) dilapidated, substandard, or unfit for human habitation; and
 - (2) a hazard to the public health, safety, and welfare.
- (c) An ordinance adopted under Subsection (a) or (b) must:
- (1) establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction;
 - (2) provide for giving proper notice to the owner of a building; and
 - (3) provide for a public hearing to determine whether a building complies with the standards set out in the ordinance.
- (d) After the public hearing, if a building is found in violation of standards set out in the ordinance, the municipality may order that the building be repaired or demolished within a reasonable time.
- (e) If the building is not repaired or demolished within the allotted time, the municipality may demolish the building at its own expense.
- (f) If a Type A general-law municipality incurs demolition expenses under Subsection (e), it has a lien against the property on which the building was located. The lien is extinguished if the property owner reimburses the city for the expenses. The lien may not be enforced by forced sale.
- (g) If a home-rule municipality incurs demolition expenses under Subsection (e), it may assess the expenses on the property on which the building was located. The municipality may provide for the assessment, the method of notifying the owner of the assessment, and the method of recovering the expenses. (V.A.C.S. Art. 1015n; Art. 1175, Subdiv. 36.)

Sec. 214.002. REQUIRING REMOVAL OF BUILDING OR OTHER STRUCTURE.

- (a) If the governing body of a Type A general-law municipality finds that a building, fence, shed, awning, or other structure, or part of a structure, is likely to fall and endanger persons or property, the governing body may:
- (1) order the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located to remove the structure, or the part of the structure, within a specified time; or
 - (2) remove the structure, or the part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the removal expenses on the property on which the structure was located.
- (b) The governing body shall provide by ordinance for:
- (1) the assessment of removal expenses incurred under Subsection (a)(2);
 - (2) a method of giving notice of the assessment; and
 - (3) a method of recovering the expenses.
- (c) The governing body may punish by a fine, confinement in jail, or both a person who does not comply with an order issued under Subsection (a)(1). (V.A.C.S. Art. 1015, Subdiv. 24.)

[Sections 214.003-214.010 reserved for expansion]

SUBCHAPTER B. PLUMBING AND SEWERS

- Sec. 214.011. PLUMBING INSPECTOR.** (a) If a municipality does not have a special charter that provides for an inspector of plumbing, the governing body of the municipality may appoint an inspector of plumbing for a term fixed by the governing body.

(b) The same individual may serve as plumbing inspector and city engineer. (V.A.C.S. Art. 1077.)

Sec. 214.012. SEWERS AND PLUMBING. A municipality that has underground sewers or cesspools shall regulate by ordinance:

- (1) the tapping of the sewers and cesspools; and
- (2) house draining and plumbing. (V.A.C.S. Art. 1076.)

Sec. 214.013. SEWER CONNECTIONS. (a) A home-rule municipality may:

- (1) provide for a sanitary sewer system; and
- (2) require property owners to connect to the sewer system.

(b) If an owner does not connect to the sewer system, the municipality may:

- (1) fix a lien against the owner's property;
- (2) charge the cost of the connection to the owner as a personal liability; and
- (3) impose a penalty on the owner. (V.A.C.S. Art. 1175, Subdiv. 29.)

Sec. 214.014. DRAINS, SINKS, AND PRIVIES. (a) The governing body of a Type A general-law municipality may, by resolution or ordinance, order the owner of a private drain, sink, or privy to fill up, clean, drain, alter, relay, repair, or improve the drain, sink, or privy.

(b) If the order cannot be served on a person in the municipality, the municipality may have the work done on behalf of the owner. The municipality may fix a lien on the owner's property for expenses incurred in having the work done. The lien is created when the mayor of the municipality files and records a memorandum, under the seal of the municipality, with the clerk of the district court.

(c) The municipality may enforce the lien and may obtain in any court having jurisdiction a judgment against the owner for the amount of the expenses.

(d) The governing body may punish by a fine a person who does not comply with an order adopted under this section. (V.A.C.S. Art. 1015, Subdiv. 10.)

[Sections 214.015–214.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS POWERS

Sec. 214.901. ENERGY CONSERVATION. A home-rule municipality may require that the construction of buildings comply with the energy conservation standards in the municipal building code. (V.A.C.S. Art. 1175, Subdiv. 35.)

Sec. 214.902. RENT CONTROL. (a) The governing body of a municipality may, by ordinance, establish rent control if:

- (1) the governing body finds that a housing emergency exists due to a disaster as defined by Section 4(l), Texas Disaster Act of 1975 (Article 6889–7, Vernon's Texas Civil Statutes); and
- (2) the governor approves the ordinance.

(b) The governing body shall continue or discontinue rent control in the same manner that the governor continues or discontinues a state of disaster under Section 5(d), Texas Disaster Act of 1975. (V.A.C.S. Art. 12691–1, Secs. 1a, 1b.)

CHAPTER 215. MUNICIPAL REGULATION OF MISCELLANEOUS
BUSINESSES AND OTHER ACTIVITIES

SUBCHAPTER A. REGULATION BY MUNICIPALITIES IN GENERAL

- Sec. 215.001. FIREARMS; EXPLOSIVES
Sec. 215.002. MOTOR VEHICLES AND ACCESSORIES
Sec. 215.003. RENDERING PLANTS

[Sections 215.004–215.020 reserved for expansion]

SUBCHAPTER B. REGULATION BY TYPE A GENERAL-LAW MUNICIPALITY

- Sec. 215.021. MUNICIPALITY COVERED BY SUBCHAPTER
Sec. 215.022. BREAD
Sec. 215.023. BUTCHERS
Sec. 215.024. TANNERIES; STABLES; SLAUGHTERHOUSES; OTHER BUSINESSES
Sec. 215.025. ANIMAL DRIVES
Sec. 215.026. ANIMALS AT LARGE
Sec. 215.027. BREEDING ANIMALS
Sec. 215.028. MARKETS
Sec. 215.029. DRIVERS; PORTERS
Sec. 215.030. MESSENGERS
Sec. 215.031. HAWKERS; PEDDLERS; PAWNBROKERS
Sec. 215.032. EXHIBITIONS; SHOWS; AMUSEMENTS
Sec. 215.033. LICENSES; FEES
Sec. 215.034. SUSPENSION OR REVOCATION OF OCCUPATION LICENSE

[Sections 215.035–215.050 reserved for expansion]

SUBCHAPTER C. REGULATION BY TYPE B GENERAL-LAW MUNICIPALITY

- Sec. 215.051. MUNICIPALITY COVERED BY SUBCHAPTER
Sec. 215.052. MARKETS

[Sections 215.053–215.070 reserved for expansion]

SUBCHAPTER D. REGULATION BY HOME-RULE MUNICIPALITY

- Sec. 215.071. MUNICIPALITY COVERED BY SUBCHAPTER
Sec. 215.072. DAIRIES; SLAUGHTERHOUSES
Sec. 215.073. VEHICLES FOR HIRE
Sec. 215.074. THEATERS; SHOWS; AMUSEMENTS
Sec. 215.075. POLICE POWER

CHAPTER 215. MUNICIPAL REGULATION OF MISCELLANEOUS
BUSINESSES AND OTHER ACTIVITIES

SUBCHAPTER A. REGULATION BY MUNICIPALITIES IN GENERAL

Sec. 215.001. FIREARMS; EXPLOSIVES. (a) A municipality may not adopt regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ammunition, or firearm supplies.

(b) Subsection (a) does not affect the authority a municipality has under another law to:

- (1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;
- (2) regulate the discharge of firearms within the limits of the municipality;
- (3) regulate the use of property, the location of a business, or uses at a business under the municipality's fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of Subsection (a) or Subdivision (5) of this subsection;

(4) regulate the use of firearms in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation; or

(6) regulate the carrying of a firearm at a:

- (A) public park;
- (B) public meeting of a municipality, county, or other governmental body;
- (C) political rally, parade, or official political meeting; or
- (D) nonfirearms-related school, college, or professional athletic event.

(c) The exception provided by Subsection (b)(6) does not apply if the firearm is in or is carried to or from an area designated for use in a lawful hunting, fishing, or other sporting event and the firearm is of the type commonly used in the activity. (V.A.C.S. Art. 1015p.)

Sec. 215.002. **MOTOR VEHICLES AND ACCESSORIES.** (a) A municipality by ordinance may license and otherwise regulate persons engaged primarily or incidentally in the sale or exchange of motor vehicles or motor vehicle parts or accessories within the limits of the municipality.

(b) A municipality may prescribe penalties for the violation of the ordinance.

(c) Any money collected under the ordinance may be used by the city only for the enforcement of the ordinance and any other laws regulating the sale, exchange, or theft of motor vehicles or motor vehicle parts or accessories. (V.A.C.S. Art. 1015e, Sec. 1.)

Sec. 215.003. **RENDERING PLANTS.** To protect residents of a municipality from health hazards related to unsanitary conditions that may exist in connection with rendering plants, the municipality by ordinance may regulate the equipment and manner of operation of rendering plants located within the limits of the municipality or within one mile of the limits. (V.A.C.S. Art. 1015k.)

[Sections 215.004–215.020 reserved for expansion]

SUBCHAPTER B. REGULATION BY TYPE A GENERAL-LAW MUNICIPALITY

Sec. 215.021. **MUNICIPALITY COVERED BY SUBCHAPTER.** This subchapter applies only to a Type A general-law municipality. (New.)

Sec. 215.022. **BREAD.** The governing body of the municipality may regulate the weight and quality of bread to be sold or used within the municipality. (V.A.C.S. Art. 1015, Subdiv. 6.)

Sec. 215.023. **BUTCHERS.** The governing body of the municipality may adopt any rules relating to butchers that the governing body considers necessary and proper. (V.A.C.S. Art. 1015, Subdiv. 7.)

Sec. 215.024. **TANNERIES; STABLES; SLAUGHTERHOUSES; OTHER BUSINESSES.** (a) As necessary for the health, comfort, and convenience of the residents of the municipality, the governing body of the municipality may compel the owner or occupant to clean, abate, or remove:

- (1) a grocery;
- (2) a soap, tallow, or chandler establishment;
- (3) a blacksmith shop;
- (4) a tannery;
- (5) a stable;
- (6) a slaughterhouse;
- (7) a sewer;
- (8) a privy;

- (9) a hide house; or
- (10) any other unwholesome or nauseous house or place.
- (b) The governing body may direct the location of:
 - (1) businesses;
 - (2) tanneries;
 - (3) blacksmith shops;
 - (4) foundries;
 - (5) livery stables; and
 - (6) manufacturing establishments.
- (c) Within the limits of a municipality, the governing body may restrain, abate, prohibit, direct the location of, or regulate the management or construction of:
 - (1) slaughtering establishments;
 - (2) hide houses;
 - (3) establishments for making soap;
 - (4) establishments for steaming or rendering lard, tallow, offal, or any other substances that may be rendered; and
 - (5) any other establishments or places at which any nauseous, offensive, or unwholesome business may be conducted. (V.A.C.S. Art. 1015, Subdivs. 8, 9.)

Sec. 215.025. ANIMAL DRIVES. The governing body of the municipality may prohibit or otherwise regulate the driving of cattle, horses, or other animals in the municipality. (V.A.C.S. Art. 1015, Subdiv. 14.)

Sec. 215.026. ANIMALS AT LARGE. (a) The governing body of the municipality may establish and regulate public pounds.

 - (b) The governing body may prohibit or otherwise regulate the running at large of horses, mules, cattle, sheep, swine, or goats.
 - (c) If an animal is at large in violation of an ordinance adopted under this section, the governing body may authorize:
 - (1) the capture and impounding of the animal;
 - (2) the sale of the animal for the costs of the sale proceedings and any penalties imposed;
 - (3) the destruction of the animal if the animal cannot be sold; and
 - (4) the imposition of a penalty on the owner. (V.A.C.S. Art. 1015, Subdiv. 16.)

Sec. 215.027. BREEDING ANIMALS. The governing body of the municipality by ordinance may prohibit a person from keeping a jack, bull, or stallion in the municipality for breeding purposes. (V.A.C.S. Art. 1015, Subdiv. 17.)

Sec. 215.028. MARKETS. (a) The governing body of the municipality may establish or erect markets or market houses.

 - (b) The governing body may designate and regulate market places and privileges and may inspect and determine the manner of inspecting meat, fish, vegetables and other produce, and any other article brought for sale at a market. (V.A.C.S. Art. 1015, Subdiv. 31.)

Sec. 215.029. DRIVERS; PORTERS. (a) The governing body of the municipality may license, tax, or otherwise regulate:

 - (1) cabdrivers;
 - (2) draymen;
 - (3) bus drivers;
 - (4) baggage wagon drivers;
 - (5) porters; and
 - (6) any other persons pursuing similar occupations with or without vehicles.

(b) The governing body may prescribe the compensation of persons subject to Subsection (a).

(c) The governing body may provide for the protection of persons subject to Subsection (a) and may make the attempt to defraud those persons of any legal charge for services rendered a misdemeanor offense. (V.A.C.S. Art. 1015, Subdiv. 36 (part).)

Sec. 215.030. MESSENGERS. The governing body of the municipality may license, restrain, or otherwise regulate messengers for railroads, stages, or public houses. (V.A.C.S. Art. 1015, Subdiv. 36 (part).)

Sec. 215.031. HAWKERS; PEDDLERS; PAWNBROKERS. The governing body of the municipality may license, tax, suppress, prevent, or otherwise regulate:

- (1) hawkers;
- (2) peddlers; and
- (3) pawnbrokers. (V.A.C.S. Art. 1015, Subdiv. 37 (part).)

Sec. 215.032. EXHIBITIONS; SHOWS; AMUSEMENTS. (a) The governing body of the municipality may license, tax, suppress, prevent, or otherwise regulate keepers of theatrical or other exhibitions, shows, or amusements.

(b) The governing body may license, tax, or otherwise regulate:

- (1) theaters;
- (2) circuses;
- (3) exhibitions of common showmen;
- (4) shows of any kind;
- (5) exhibitions of natural or artificial curiosities;
- (6) caravans;
- (7) menageries; and
- (8) musical exhibitions or performances. (V.A.C.S. Art. 1015, Subdivs. 37 (part), 38.)

Sec. 215.033. LICENSES; FEES. (a) The governing body of the municipality may authorize the proper municipal officer to grant and issue licenses, direct the manner of issuing and registering licenses, and set the fees to be paid for licenses.

(b) A license may not be issued for a period of more than one year.

(c) A license may not be assigned except as permitted by the governing body. (V.A.C.S. Art. 1015, Subdiv. 39.)

Sec. 215.034. SUSPENSION OR REVOCATION OF OCCUPATION LICENSE. A judge of the municipal court, in addition to imposing a fine, may institute proceedings to suspend or revoke the license of a person if:

- (1) the person is required, by law or by a municipal ordinance adopted under a law, to obtain the license from the municipality for an occupation, business, or avocation; and
- (2) the judge finds the person guilty of violating a municipal ordinance relating to the occupation, business, or avocation. (V.A.C.S. Art. 1035.)

[Sections 215.035–215.050 reserved for expansion]

SUBCHAPTER C. REGULATION BY TYPE B GENERAL-LAW MUNICIPALITY

Sec. 215.051. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type B general-law municipality. (New.)

Sec. 215.052. MARKETS. The governing body of the municipality may establish markets. (V.A.C.S. Art. 1146 (part).)

[Sections 215.053–215.070 reserved for expansion]

SUBCHAPTER D. REGULATION BY HOME-RULE MUNICIPALITY

Sec. 215.071. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a home-rule municipality. (New.)

Sec. 215.072. **DAIRIES; SLAUGHTERHOUSES.** The municipality may inspect dairies, slaughterhouses, or slaughter pens, in or outside the municipal limits, from which milk or meat is furnished to the residents of the municipality. (V.A.C.S. Art. 1175, Subdiv. 19 (part).)

Sec. 215.073. **VEHICLES FOR HIRE.** The municipality may license, fix the charges or fares made by, or otherwise regulate any person who owns, operates, or controls any type of vehicle used on the public streets or alleys of the municipality for carrying passengers or freight for compensation. (V.A.C.S. Art. 1175, Subdiv. 21.)

Sec. 215.074. **THEATERS; SHOWS; AMUSEMENTS.** The municipality may regulate the location and conduct of:

- (1) theaters;
- (2) movie theaters;
- (3) bowling alleys; and
- (4) other places of public amusements. (V.A.C.S. Art. 1175, Subdiv. 22.)

Sec. 215.075. **POLICE POWER.** The municipality may license any lawful business or occupation that is subject to the police power of the municipality. (V.A.C.S. Art. 1175, Subdiv. 23.)

CHAPTER 216. REGULATION OF SIGNS BY MUNICIPALITIES

SUBCHAPTER A. RELOCATION, RECONSTRUCTION, OR REMOVAL OF SIGN

- Sec. 216.001. LEGISLATIVE INTENT
- Sec. 216.002. DEFINITIONS
- Sec. 216.003. MUNICIPAL REGULATION
- Sec. 216.004. MUNICIPAL BOARD
- Sec. 216.005. DETERMINATION OF AMOUNT OF COMPENSATION
- Sec. 216.006. COMPENSATION FOR RELOCATED SIGN
- Sec. 216.007. COMPENSATION FOR RECONSTRUCTED SIGN
- Sec. 216.008. COMPENSATION FOR REMOVAL OF OFF-PREMISE SIGN
- Sec. 216.009. COMPENSATION FOR REMOVAL OF ON-PREMISE SIGN
- Sec. 216.010. METHOD OF COMPENSATION
- Sec. 216.011. TAX APPRAISAL OF PROPERTY WITH NONCONFORMING SIGN
- Sec. 216.012. SPECIAL PROVISIONS FOR SIGNS UNDER SIGN

ORDINANCE IN EFFECT ON JUNE 1, 1985

- Sec. 216.013. EXCEPTIONS
- Sec. 216.014. APPEAL
- Sec. 216.015. EFFECT OF PARTIAL INVALIDITY

[Sections 216.016–216.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 216.901. REGULATION OF SIGNS BY HOME-RULE MUNICIPALITY
- Sec. 216.902. REGULATION OF OUTDOOR SIGNS IN MUNICIPALITY'S EXTRA-TERRITORIAL JURISDICTION

CHAPTER 216. REGULATION OF SIGNS BY MUNICIPALITIES

SUBCHAPTER A. RELOCATION, RECONSTRUCTION, OR REMOVAL OF SIGN

Sec. 216.001. **LEGISLATIVE INTENT.** (a) This subchapter is not intended to require a municipality to provide for the relocation, reconstruction, or removal of any sign in the municipality, nor is it intended to prohibit a municipality from requiring the relocation, reconstruction, or removal of any sign. This subchapter is intended only to authorize a municipality to take that action and to establish the procedure by which the municipality may do so.

(b) This subchapter is not intended to require a municipality to make a cash payment to compensate the owner of a sign that the municipality requires to be relocated,

reconstructed, or removed. Cash payment is established as only one of several methods from which a municipality may choose in compensating the owner of a sign.

(c) This subchapter is not intended to affect any eminent domain proceeding in which the taking of a sign is only an incidental part of the exercise of the eminent domain power. (V.A.C.S. Art. 1015o, Sec. 1.)

Sec. 216.002. DEFINITIONS. In this subchapter:

(1) "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform.

(2) "On-premise sign" means a freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

(3) "Off-premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located. (V.A.C.S. Art. 1015o, Sec. 2 (part).)

Sec. 216.003. MUNICIPAL REGULATION. (a) Subject to the requirements of this subchapter, a municipality may require the relocation, reconstruction, or removal of any sign within its corporate limits or extraterritorial jurisdiction.

(b) The owner of a sign that is required to be relocated, reconstructed, or removed is entitled to be compensated by the municipality for costs associated with the relocation, reconstruction, or removal.

(c) If application of a municipal regulation would require reconstruction of a sign in a manner that would make the sign ineffective for its intended purpose, such as by substantially impairing the sign's visibility, application of the regulation is treated as the required removal of the sign for purposes of this subchapter.

(d) In lieu of paying compensation, a city may exempt from required relocation, reconstruction, or removal those signs lawfully in place on the effective date of the requirement. (V.A.C.S. Art. 1015o, Secs. 4(a), (b) (part); 5(g), (h).)

Sec. 216.004. MUNICIPAL BOARD. (a) If a municipality requires the relocation, reconstruction, or removal of a sign within its corporate limits or extraterritorial jurisdiction, the presiding officer of the governing body of the municipality shall appoint a municipal board on sign control. The board must be composed of:

- (1) two real estate appraisers registered with the Society of Real Estate Appraisers or the American Institute of Real Estate Appraisers;
- (2) one person engaged in the sign business in the municipality;
- (3) one employee of the State Department of Highways and Public Transportation who is familiar with real estate valuations in eminent domain proceedings; and
- (4) one architect or landscape architect licensed by this state.

(b) A member of the board is appointed for a term of two years. (V.A.C.S. Art. 1015o, Secs. 3(a), (b).)

Sec. 216.005. DETERMINATION OF AMOUNT OF COMPENSATION. (a) The municipal board on sign control shall determine the amount of the compensation to which the owner of a sign that is required to be relocated, reconstructed, or removed is entitled. The determination shall be made after the owner of the sign is given the opportunity for a hearing before the board about the issues involved in the matter.

(b) In any court proceeding in which the reasonableness of compensation is at issue and the compensation is to be provided over a period longer than one year, the court shall consider whether the duration of the period is reasonable under the circumstances. (V.A.C.S. Art. 1015o, Secs. 4(b) (part), 5(f).)

Sec. 216.006. COMPENSATION FOR RELOCATED SIGN. The compensable costs for a sign that is required to be relocated include the expenses of dismantling the sign,

transporting it to another site, and reerecting it. The board shall determine the compensable costs according to the standards applicable in a proceeding under Chapter 21, Property Code. In addition, the municipality shall issue to the owner of the sign an appropriate permit or other authority to operate a substitute sign of the same type at an alternative site of substantially equivalent value. Whether an alternative site is of substantially equivalent value is determined by standards generally accepted in the outdoor advertising industry, including visibility, traffic count, and demographic factors. The municipality shall compensate the owner for any increased operating costs, including increased rent, at the new location. The owner is responsible for designating an alternative site where the erection of the sign would be in compliance with the sign ordinance. (V.A.C.S. Art. 1015o, Sec. 4(c).)

Sec. 216.007. **COMPENSATION FOR RECONSTRUCTED SIGN.** The compensable costs for a sign that is required to be reconstructed include expenses of labor and materials and any loss in the value of the sign due to the reconstruction in excess of 15 percent of that value. The board shall determine the compensable costs according to standards applicable in a proceeding under Chapter 21, Property Code. (V.A.C.S. Art. 1015o, Sec. 4(d).)

Sec. 216.008. **COMPENSATION FOR REMOVAL OF OFF-PREMISE SIGN.** (a) For an off-premise sign that is required to be removed, the compensable cost is an amount computed by determining the average annual gross revenue received by the owner from the sign during the two years preceding September 1, 1985, or the two years preceding the month in which the removal date of the sign occurs, whichever is less, and by multiplying that amount by three. If the sign has not been in existence for all of either two-year period, the average annual gross revenue for that period, for the purpose of this computation, is an amount computed by dividing 12 by the number of months that the sign has been in existence, and multiplying that result by the total amount of the gross revenue received for the period that the sign has been in existence. However, if the sign did not generate revenue for at least one month preceding September 1, 1985, this computation of compensable costs is to be made using only the average annual gross revenue received during the two years preceding the month in which the removal date of the sign occurs, and by multiplying that amount by three. In determining the amounts under this paragraph, a sign is treated as if it were in existence for the entire month if it was in existence for more than 15 days of the month and is treated as if it were not in existence for any part of the month if it was in existence for 15 or fewer days of the month.

(b) The owner of the real property on which the sign was located is entitled to be compensated for any decrease in the value of the real property. The compensable cost is to be determined by the board according to standards applicable in a proceeding under Chapter 21, Property Code. (V.A.C.S. Art. 1015o, Secs. 4(e)(1), (f).)

Sec. 216.009. **COMPENSATION FOR REMOVAL OF ON-PREMISE SIGN.** For an on-premise sign that is required to be removed, the compensable cost is an amount computed by determining a reasonable balance between the original cost of the sign, less depreciation, and the current replacement cost of the sign, less an adjustment for the present age and condition of the sign. (V.A.C.S. Art. 1015o, Sec. 4(e)(2).)

Sec. 216.010. **METHOD OF COMPENSATION.** (a) To pay the compensable costs required under this subchapter, the governing body of a municipality may use only a method, or a combination of the methods, prescribed by this section.

(b) If a sign is required to be relocated or reconstructed, the municipality, acting pursuant to the Property Redevelopment and Tax Abatement Act (Article 1066f, Vernon's Texas Civil Statutes), may abate municipal property taxes that otherwise would be owed by the owner of the sign. The abated taxes may be on any real or personal property owned by the owner of the sign except residential property. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right to abatement with respect to taxes on any nonresidential property in the same taxing jurisdiction. In a

municipality where tax abatement is used to pay compensable costs, the costs include reasonable interest and the abatement period may not exceed five years.

(c) The municipality may allocate to a special fund in the municipal treasury, to be known as the sign abatement and community beautification fund, all or any part of the municipal property taxes paid on signs, on the real property on which the signs are located, or on other real or personal property owned by the owner of the sign. The municipality may make payments from that fund to reimburse compensable costs to owners of signs required to be relocated, reconstructed, or removed.

(d) The municipality may provide for the issuance of sign abatement revenue bonds and use the proceeds to make payments to reimburse costs to the owners of signs within the corporate limits of such municipality that are required to be relocated, reconstructed, or removed.

(e) The municipality may pay compensable costs in cash. (V.A.C.S. Art. 1015o, Secs. 5(a), (b), (c), (d), (e).)

Sec. 216.011. TAX APPRAISAL OF PROPERTY WITH NONCONFORMING SIGN. For each nonconforming sign, the board shall file with the appropriate property tax appraisal office the board's compensable costs value appraisal of the sign. The appraisal office shall consider the board's appraisal when the office, for property tax purposes, determines the appraised value of the real property to which the sign is attached. (V.A.C.S. Art. 1015o, Sec. 4(g).)

Sec. 216.012. SPECIAL PROVISIONS FOR SIGNS UNDER SIGN ORDINANCE IN EFFECT ON JUNE 1, 1985. (a) This section applies to compensation for the required relocation, reconstruction, or removal of a sign under a municipal ordinance in effect on June 1, 1985, that provided for compensation to the sign owner under an amortization plan.

(b) For a nonconforming sign erected after September 1, 1985, or for a sign in place on that date that later is made nonconforming by an extension of or strengthening of an ordinance that was in effect on June 1, 1985, and that provided an amortization plan, the amortization period is the entire useful life of the sign. If it has not already done so, the board shall determine the entire useful life of signs by type or category, such as mono-pole signs, metal signs, and wood signs. The useful life may not be solely determined by the natural life expectancy of a sign.

(c) Compensation for the relocation, reconstruction, or removal of a sign that, on September 1, 1985, was not in compliance with the sign ordinance shall be made in accordance with the applicable procedures of Section 6, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes), and that law is continued in effect for this purpose. (V.A.C.S. Art. 1015o, Sec. 6.)

Sec. 216.013. EXCEPTIONS. (a) The requirements of this subchapter do not apply to a sign that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection.

(b) The requirements of this subchapter do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be removed by a municipality because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

(d) This subchapter does not limit or restrict the compensation provisions of the highway beautification provisions contained in Article IV, Texas Litter Abatement Act (Article 4477-9a, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 1015o, Sec. 8.)

Sec. 216.014. APPEAL. (a) Any person aggrieved by a decision of the board may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed within 20 days after the date the decision is rendered by the board.

(b) On the filing of the petition, the court may issue a writ of certiorari directed to the board to review the decision of the board and shall prescribe in the writ the time within which a return must be made, which must be longer than 10 days and may be extended by the court.

(c) The board is not required to return the original papers acted on by it, but it shall be sufficient to return certified or sworn copies of the papers. The return must concisely set forth all other facts as may be pertinent and material to show the grounds of the decision appealed from and must be verified.

(d) The court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

(e) Costs may not be allowed against the board unless it appears to the court that the board acted with gross negligence, in bad faith, or with malice in making the decision appealed from. (V.A.C.S. Art. 1015o, Sec. 7.)

Sec. 216.015. EFFECT OF PARTIAL INVALIDITY. (a) The legislature declares that it would not have enacted the following without the inclusion of Section 216.010(a), to the extent that provision excludes methods of compensation not specifically authorized by that provision:

- (1) this subchapter;
- (2) Section 216.902;
- (3) Article 2, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-3, Vernon's Texas Civil Statutes); and
- (4) the amendments made to Section 3, Property Redevelopment and Tax Abatement Act (Article 1066f, Vernon's Texas Civil Statutes) by Article 4, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985.

(b) If that exclusion of alternative methods of compensation is held invalid for any reason by a final judgment of a court of competent jurisdiction, the enactments described by Subsection (a) are void. (Sec. 2(a), Art. 5, Ch. 221, Acts 69th Leg., R.S., 1985.)

[Sections 216.016–216.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 216.901. REGULATION OF SIGNS BY HOME-RULE MUNICIPALITY. (a) A home-rule municipality may license, regulate, control, or prohibit the erection of signs or billboards by charter or ordinance.

(b) Subsection (a) does not authorize a municipality to regulate the relocation, reconstruction, or removal of a sign in violation of Subchapter A. (V.A.C.S. Art. 1175, Subdiv. 24.)

Sec. 216.902. REGULATION OF OUTDOOR SIGNS IN MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION. (a) A municipality may extend the provisions of its outdoor sign regulatory ordinance and enforce the ordinance within its area of extraterritorial jurisdiction as defined by Chapter 42. However, any municipality, in lieu of the regulatory ordinances, may allow the State Highway and Public Transportation Commission to regulate outdoor signs in the municipality's extraterritorial jurisdiction by filing a written notice with the commission.

(b) If a municipality extends its outdoor sign ordinance within its area of extraterritorial jurisdiction, the municipal ordinance supersedes the regulations imposed by or adopted under Article 6674v-3, Vernon's Texas Civil Statutes. (V.A.C.S. Art. 1015o-1.)

CHAPTER 217. MUNICIPAL REGULATION OF NUISANCES AND
DISORDERLY CONDUCT

SUBCHAPTER A. REGULATION BY TYPE A GENERAL-LAW MUNICIPALITY

- Sec. 217.001. MUNICIPALITY COVERED BY SUBCHAPTER
- Sec. 217.002. NUISANCE
- Sec. 217.003. DISORDERLY CONDUCT

[Sections 217.004–217.020 reserved for expansion]

SUBCHAPTER B. REGULATION BY TYPE B GENERAL-LAW MUNICIPALITY

- Sec. 217.021. MUNICIPALITY COVERED BY SUBCHAPTER
- Sec. 217.022. NUISANCE

[Sections 217.023–217.040 reserved for expansion]

SUBCHAPTER C. REGULATION BY HOME-RULE MUNICIPALITY

- Sec. 217.041. MUNICIPALITY COVERED BY SUBCHAPTER
- Sec. 217.042. NUISANCE

CHAPTER 217. MUNICIPAL REGULATION OF NUISANCES AND
DISORDERLY CONDUCT

SUBCHAPTER A. REGULATION BY TYPE A GENERAL-LAW MUNICIPALITY

Sec. 217.001. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type A general-law municipality. (New.)

Sec. 217.002. NUISANCE. The governing body of the municipality may:

- (1) abate and remove a nuisance and punish by fine the person responsible for the nuisance;
- (2) define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance; and
- (3) abate in any manner the governing body considers expedient any nuisance that may injure or affect the public health or comfort. (V.A.C.S. Art. 1015, Subdiv. 11.)

Sec. 217.003. DISORDERLY CONDUCT. (a) The governing body of the municipality may prevent and may punish a person engaging in:

- (1) trespass or breach of the peace;
- (2) assault, battery, fighting, or quarreling;
- (3) use of abusive, obscene, profane, or insulting language; or
- (4) other disorderly conduct.

(b) The governing body may suppress or prevent any riot, affray, noise, disturbance, or disorderly assembly in any public or private place in the municipality.

(c) The governing body may restrain or prohibit the firing of firecrackers or guns, the use of a bicycle or similar conveyance, the use of a firework or similar material, or any other amusement or practice tending to annoy persons passing on a street or sidewalk.

(d) The governing body may restrain or prohibit the ringing of bells, blowing of horns, hawking of goods, or any other noise, practice, or performance directed to persons on a street or sidewalk by an auctioneer or other person for the purpose of business, amusement, or otherwise. (V.A.C.S. Art. 1015, Subdivs. 20, 21, 22.)

[Sections 217.004–217.020 reserved for expansion]

SUBCHAPTER B. REGULATION BY TYPE B GENERAL-LAW MUNICIPALITY

Sec. 217.021. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type B general-law municipality. (New.)

Sec. 217.022. NUISANCE. The governing body of the municipality shall prevent to the extent practicable any nuisance within the limits of the municipality and shall have each nuisance removed at the expense of the person who is responsible for the nuisance or who owns the property on which the nuisance exists. (V.A.C.S. Art. 1146 (part).)

[Sections 217.023–217.040 reserved for expansion]

SUBCHAPTER C. REGULATION BY HOME-RULE MUNICIPALITY

Sec. 217.041. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a home-rule municipality. (New.)

Sec. 217.042. NUISANCE. (a) The municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the limits.

(b) The municipality may enforce all ordinances necessary to prevent and summarily abate and remove a nuisance. (V.A.C.S. Art. 1175, Subdivs. 19 (part), 34 (part).)

[Chapters 218–229 reserved for expansion]

CHAPTER 230. MISCELLANEOUS REGULATORY AUTHORITY OF MUNICIPALITIES

SUBCHAPTER A. ENFORCEMENT OF LAND USE RESTRICTIONS CONTAINED IN PLATS AND OTHER INSTRUMENTS

- Sec. 230.001. MUNICIPALITY COVERED BY SUBCHAPTER
- Sec. 230.002. DEFINITION
- Sec. 230.003. SUIT TO ENFORCE RESTRICTIONS
- Sec. 230.004. LIMITATION ON ENFORCEMENT

[Sections 230.005–230.010 reserved for expansion]

SUBCHAPTER B. COMMERCIAL BUILDING PERMITS IN MUNICIPALITIES WITH POPULATION OF MORE THAN 900,000

- Sec. 230.011. MUNICIPALITY COVERED BY SUBCHAPTER
- Sec. 230.012. DEFINITIONS
- Sec. 230.013. PERMIT APPLICATION REQUIREMENTS; ISSUANCE OF PERMIT
- Sec. 230.014. FILING OF PLAT AND RESTRICTIONS; EFFECT ON PERMIT
- Sec. 230.015. REPAIRS; CONVERSIONS
- Sec. 230.016. INJUNCTION
- Sec. 230.017. REVIEW OF REFUSAL TO ISSUE PERMIT
- Sec. 230.018. VOID PERMITS

CHAPTER 230. MISCELLANEOUS REGULATORY AUTHORITY OF MUNICIPALITIES

SUBCHAPTER A. ENFORCEMENT OF LAND USE RESTRICTIONS CONTAINED IN PLATS AND OTHER INSTRUMENTS

Sec. 230.001. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality that:

- (1) does not have zoning ordinances; and
- (2) passes an ordinance that requires uniform application and enforcement of this subchapter with regard to all property and residents. (V.A.C.S. Art. 974a-1, Sec. 1.)

Sec. 230.002. DEFINITION. In this subchapter, “restriction” means a limitation that:

- (1) affects the use to which real property may be put;
- (2) fixes the distance that a structure must be set back from property lines, street lines, or lot lines; or
- (3) affects the size of a lot or the size, type, and number of structures that may be built on the lot. (V.A.C.S. Art. 974a-1, Sec. 2(b).)

Sec. 230.003. SUIT TO ENFORCE RESTRICTIONS. The municipality may sue in any court of competent jurisdiction to enjoin or abate a violation of a restriction contained or incorporated by reference in a properly recorded plan, plat, or other instrument that affects a subdivision located inside the boundaries of the municipality. (V.A.C.S. Art. 974a-1, Sec. 2(a).)

Sec. 230.004. LIMITATION ON ENFORCEMENT. A restriction contained in a plan, plat, or other instrument that was properly recorded before August 30, 1965, may be enforced as provided by Section 230.003, but a violation of a restriction that occurred before that date may not be enjoined or abated by the municipality as long as the nature of the violation remains unchanged. (V.A.C.S. Art. 974a-1, Sec. 3 (part).)

[Sections 230.005–230.010 reserved for expansion]

SUBCHAPTER B. COMMERCIAL BUILDING PERMITS IN MUNICIPALITIES WITH POPULATION OF MORE THAN 900,000

Sec. 230.011. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 900,000. (V.A.C.S. Art. 974a-2, Sec. 1.)

Sec. 230.012. DEFINITIONS. In this subchapter:

- (1) “Commercial building” means a building that is not a single family residence.
- (2) “Permit department” means the municipal agency that is authorized to issue commercial building permits.
- (3) “Subdivider” means a person who divides a tract of real property under circumstances to which Subchapter A, Chapter 212 applies. (V.A.C.S. Art. 974a-2, Sec. 2 (part).)

Sec. 230.013. PERMIT APPLICATION REQUIREMENTS; ISSUANCE OF PERMIT. (a) A person who desires to obtain a commercial building permit must file with the permit application a certified copy of any instrument that contains a restriction on the use of or on construction on the affected property and must also include a certified copy of any amendment, judgment, or other document that affects the use of the property.

(b) The permit department shall issue a permit for construction or repair that conforms to all restrictions relating to the use of the property described in the application if the applicant for the permit has complied with this subchapter and with local ordinances relating to commercial building permits. (V.A.C.S. Art. 974a-2, Sec. 3.)

Sec. 230.014. FILING OF PLAT AND RESTRICTIONS; EFFECT ON PERMIT. (a) At the time that a subdivider files a plat of a proposed subdivision for recording, the subdivider shall file with the permit department two copies of the subdivision plat and of any restrictions relating to the property included in the plat.

(b) The permit department shall securely keep one copy of the plat and restrictions as a permanent record.

(c) A person who desires to obtain a commercial building permit for property that is included in a plat or restrictions on file with the permit department is not required to file a copy of the plat and the restrictions with the permit application. (V.A.C.S. Art. 974a-2, Sec. 4.)

Sec. 230.015. REPAIRS; CONVERSIONS. (a) A person who proposes to substantially repair or remodel a commercial building located within a subdivision or to convert a single

family residence into a commercial building must obtain a commercial building permit from the permit department.

(b) This section does not apply to a violation of a restrictive covenant that occurred before May 18, 1965, if the violation retains the status existing on that date. (V.A.C.S. Art. 974a-2, Sec. 6 (part).)

Sec. 230.016. INJUNCTION. (a) A person who, without obtaining a permit, attempts to construct or repair any structure for which a commercial building permit is required may be enjoined from any further construction activity until the person complies with this subchapter.

(b) The municipality may join with an interested property owner in a suit to enjoin further construction activity by a person who does not have a permit issued in compliance with this subchapter if the structure or proposed structure violates a restriction contained in the deed or other instrument.

(c) A municipality may join with an interested property owner in a suit to enjoin the maintenance of a commercial building by a person who does not have a permit in compliance with this subchapter. (V.A.C.S. Art. 974a-2, Secs. 5(a), (b); 6 (part).)

Sec. 230.017. REVIEW OF REFUSAL TO ISSUE PERMIT. (a) An administrative refusal to issue a commercial building permit based on a violation of restrictions contained in a deed or other instrument is reviewable by a court of competent jurisdiction if, during the 90-day period after the day on which the permit is refused, the person contesting the refusal gives notice to the permit department that the suit has been filed.

(b) If conditions in a subdivision change or if other legally sufficient reasons to modify the restrictions occur, a person who has been refused a commercial building permit may petition a court of competent jurisdiction to alter the restrictions to better conform to present conditions. (V.A.C.S. Art. 974a-2, Sec. 7.)

Sec. 230.018. VOID PERMITS. A commercial permit obtained without full compliance with this subchapter is void. (V.A.C.S. Art. 974a-2, Sec. 5(c).)

SUBTITLE B. COUNTY REGULATORY AUTHORITY

CHAPTER 231. COUNTY ZONING AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 231.001. ADOPTION OF REGULATION OR BOUNDARY INCLUDES AMENDMENT OR OTHER CHANGE

[Sections 231.002–231.010 reserved for expansion]

SUBCHAPTER B. ZONING ON PADRE ISLAND

Sec. 231.011. LEGISLATIVE FINDINGS; PURPOSE
 Sec. 231.012. AREAS SUBJECT TO REGULATION
 Sec. 231.013. ZONING REGULATIONS GENERALLY
 Sec. 231.014. COMPLIANCE WITH COMPREHENSIVE PLAN
 Sec. 231.015. DISTRICTS
 Sec. 231.016. PROCEDURES GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES
 Sec. 231.017. ZONING COMMISSION
 Sec. 231.018. BOARD OF ADJUSTMENT
 Sec. 231.019. AUTHORITY OF BOARD
 Sec. 231.020. APPEAL TO BOARD
 Sec. 231.021. JUDICIAL REVIEW OF BOARD DECISION
 Sec. 231.022. ENFORCEMENT; PENALTY; REMEDIES
 Sec. 231.023. CONFLICT WITH OTHER LAWS; EXCEPTIONS

[Sections 231.024–231.030 reserved for expansion]

SUBCHAPTER C. ZONING NEAR AMISTAD RECREATION AREA

- Sec. 231.031. LEGISLATIVE FINDINGS; PURPOSE
- Sec. 231.032. AREAS SUBJECT TO REGULATION
- Sec. 231.033. ZONING REGULATIONS GENERALLY
- Sec. 231.034. COMPLIANCE WITH COMPREHENSIVE PLAN
- Sec. 231.035. DISTRICTS
- Sec. 231.036. ZONING COMMISSION
- Sec. 231.037. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES
- Sec. 231.038. SPECIAL EXCEPTION
- Sec. 231.039. ENFORCEMENT; PENALTY; REMEDIES
- Sec. 231.040. CONFLICT WITH OTHER LAWS; EXCEPTIONS

[Sections 231.041–231.050 reserved for expansion]

SUBCHAPTER D. MILITARY ZONES

- Sec. 231.051. DEFINITION
- Sec. 231.052. ESTABLISHMENT OF MILITARY ZONE
- Sec. 231.053. REGULATIONS
- Sec. 231.054. PENALTY

[Sections 231.055–231.070 reserved for expansion]

SUBCHAPTER E. ZONING AROUND CERTAIN LAKES

- Sec. 231.071. PURPOSE
- Sec. 231.072. DEFINITIONS
- Sec. 231.073. LAKE COVERED BY SUBCHAPTER
- Sec. 231.074. ZONING AND BUILDING CONSTRUCTION ORDINANCES
- Sec. 231.075. LOCAL OPTION ELECTION
- Sec. 231.076. PETITION; VERIFICATION
- Sec. 231.077. LAKE PLANNING COMMISSION
- Sec. 231.078. COMMISSION DUTIES; RULES
- Sec. 231.079. COMMISSION STUDIES; REPORTS; HEARINGS
- Sec. 231.080. ADOPTION OF ORDINANCE AFTER RECEIPT OF REPORT
- Sec. 231.081. SPECIAL EXCEPTIONS
- Sec. 231.082. CONFLICT WITH OTHER ACTION
- Sec. 231.083. ENFORCEMENT

SUBTITLE B. COUNTY REGULATORY AUTHORITY

CHAPTER 231. COUNTY ZONING AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 231.001. ADOPTION OF REGULATION OR BOUNDARY INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this chapter to the adoption of a zoning or other regulation or a zoning district boundary includes the amendment, repeal, or other change of a regulation or boundary. (New.)

[Sections 231.002–231.010 reserved for expansion]

SUBCHAPTER B. ZONING ON PADRE ISLAND

Sec. 231.011. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

- (1) the part of Padre Island located in Cameron and Willacy counties is frequented for recreational purposes by residents from every part of the state;
- (2) orderly development and use of the area is of concern to the entire state; and
- (3) buildings on islands frequented as resort areas tend to become congested and to be used in ways that interfere, to the detriment of the public health, safety, morals, and general welfare, with the proper use of the areas as places of recreation.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county parks in Cameron and Willacy counties. (V.A.C.S. Art. 2372l, Secs. 1, 2 (part).)

Sec. 231.012. AREAS SUBJECT TO REGULATION. This subchapter applies to the areas of Padre Island located in Cameron or Willacy County and located:

- (1) outside a municipality but within two miles of a publicly owned park or recreational development; or
- (2) within two miles of a beach, wharf, or bathhouse used by at least 500 persons annually. (V.A.C.S. Art. 2372l, Sec. 2 (part); New.)

Sec. 231.013. ZONING REGULATIONS GENERALLY. The commissioners court of Cameron County or of Willacy County may, for the areas subject to this subchapter in its respective county, regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- (6) the placement of water and sewage facilities, parks, and other public requirements. (V.A.C.S. Art. 2372l, Sec. 2 (part).)

Sec. 231.014. COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (1) lessen congestion in the streets and roads;
- (2) secure safety from fire, panic, and other dangers;
- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population;

(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; and

(8) assist in developing the island into parks, playgrounds, and recreational areas for the residents of this state and other states and nations. (V.A.C.S. Art. 2372l, Sec. 4 (part).)

Sec. 231.015. DISTRICTS. (a) The commissioners court may divide the area in its county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the island. (V.A.C.S. Art. 2372l, Secs. 3, 4 (part).)

Sec. 231.016. PROCEDURES GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) The commissioners courts shall establish procedures for adopting and enforcing zoning regulations and zoning district boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in a newspaper of general circulation in the county.

(b) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots, or from the street frontage of the opposite lots. (V.A.C.S. Art. 2372l, Secs. 5, 6.)

Sec. 231.017. ZONING COMMISSION. (a) To exercise the powers authorized by this subchapter, the commissioners court shall appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission must consist of seven members, each of whom must be a resident of the county. If the county has a board of park commissioners, the commissioners court may appoint the board to serve as the zoning commission.

(b) The commission shall choose a chairman who must be a commission member. The chairman serves in that capacity for a term set by the commission. The commission may at any time choose for a particular meeting or occasion an acting chairman as necessary from among its members. The commission may employ a secretary and acting secretary and other technical or clerical personnel.

(c) A member of the commission is not entitled to compensation for service on the commission but may be entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not hold a public hearing or take action until it receives the final report of the zoning commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail. (V.A.C.S. Art. 2372l, Sec. 7.)

Sec. 231.018. BOARD OF ADJUSTMENT. (a) The commissioners court may provide for the appointment of a board of adjustment. In the zoning regulations adopted under this subchapter, the commissioners court may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning regulations that are consistent with the general purpose and intent of the regulations and in accordance with any applicable rules contained in the regulations.

(b) A board of adjustment must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The board shall adopt rules in accordance with any order adopted under this subchapter. Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(d) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records. (V.A.C.S. Art. 2372l, Sec. 8 (part).)

Sec. 231.019. AUTHORITY OF BOARD. (a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or a zoning regulation;

(2) hear and decide special exceptions to the terms of a zoning regulation when the regulation requires the board to do so; and

(3) authorize in specific cases a variance from the terms of a zoning regulation if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation would result in unnecessary hardship, and so that the spirit of the regulation is observed and substantial justice is done.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(c) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning regulation; or

(3) authorize a variation in a zoning regulation. (V.A.C.S. Art. 2372l, Sec. 8 (part).)

Sec. 231.020. APPEAL TO BOARD. (a) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the county or of a municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the

notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may only be stayed by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time. (V.A.C.S. Art. 2372l, Sec. 8 (part).)

Sec. 231.021. JUDICIAL REVIEW OF BOARD DECISION. (a) Any of the following persons may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

- (1) a person aggrieved by a decision of the board;
- (2) a taxpayer; or
- (3) an officer, department, board, or bureau of the county or of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time within which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision. (V.A.C.S. Art. 2372l, Sec. 8 (part).)

Sec. 231.022. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

- (1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

- (2) restrain, correct, or abate the violation;
 - (3) prevent the occupancy of the building, structure, or land; or
 - (4) prevent any illegal act, conduct, business, or use on or about the premises.
- (V.A.C.S. Art. 2372l, Sec. 9.)

Sec. 231.023. **CONFLICT WITH OTHER LAWS; EXCEPTIONS.** (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter.

(c) This subchapter, an order adopted under this subchapter, or a zoning regulation does not apply to the location, construction, maintenance, or use of central office buildings used by a person engaging in providing telephone service to the public or equipment used in connection with those buildings or as part of the telephone system, as necessary to furnish telephone service to the public. (V.A.C.S. Art. 2372l, Secs. 4 (part), 10, 10a.)

[Sections 231.024–231.030 reserved for expansion]

SUBCHAPTER C. ZONING NEAR AMISTAD RECREATION AREA

Sec. 231.031. **LEGISLATIVE FINDINGS; PURPOSE.** (a) The legislature finds that:

- (1) the part of Val Verde County that surrounds Amistad Recreation Area is frequented for recreational purposes by residents from every part of the state;
- (2) orderly development and use of the area is of concern to the entire state; and
- (3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land. (V.A.C.S. Art. 2372l–1, Secs. 1, 2 (part).)

Sec. 231.032. **AREAS SUBJECT TO REGULATION.** This subchapter applies to that part of Val Verde County on the lakeward side of the boundaries described by Section 2, Chapter 250, Acts of the 62nd Legislature, Regular Session, 1971. That description is continued in effect for the purpose of the reference made by this section. (V.A.C.S. Art. 2372l–1, Sec. 2 (part).)

Sec. 231.033. **ZONING REGULATIONS GENERALLY.** The commissioners court of Val Verde County may regulate in areas subject to this subchapter:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- (6) the placement of water and sewage facilities, parks, and other public requirements. (V.A.C.S. Art. 2372l–1, Sec. 2 (part).)

Sec. 231.034. **COMPLIANCE WITH COMPREHENSIVE PLAN.** Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (1) lessen congestion in the streets and roads;
- (2) secure safety from fire, panic, and other dangers;

- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population;
- (7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; and
- (8) assist in developing the area into parks, playgrounds, and recreational areas for the residents of this state and other states and nations. (V.A.C.S. Art. 2372l-1, Sec. 4 (part).)

Sec. 231.035. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area. (V.A.C.S. Art. 2372l-1, Secs. 3, 4 (part).)

Sec. 231.036. ZONING COMMISSION. (a) The commissioners court shall appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission must consist of an ex officio chairman and four additional members.

(b) The commissioners court shall appoint a chairman who must be a public official in Val Verde County. The chairman serves a two-year term of office. The other members serve four-year terms. In making the initial appointments of the other members, the commissioners court shall designate the members for staggered terms of one, two, three, and four years. In the event of resignation, end of term, or a vacancy, the court shall appoint new members. The court shall fill a vacancy in the office of chairman by appointment. A person is not eligible for appointment to, or service on, the commission after the person's 70th birthday. The zoning commission may employ a secretary, an acting secretary, and other technical or clerical personnel.

(c) A member of the commission is entitled to compensation in the amount of \$10 a month except that the chairman of the zoning commission is not entitled to compensation under this section if the chairman receives compensation in the chairman's capacity as a public official in the county. A member of the commission may also be entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not take action or hold a public hearing until it has received the final report of the commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to:

- (1) each owner of affected property or to the person who renders the property for county taxes; and
 - (2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.
- (f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail. (V.A.C.S. Art. 2372l-1, Sec. 5.)

Sec. 231.037. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A zoning regulation or zoning district boundary proposed

by the zoning commission is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court by a majority vote may amend or reject a regulation or boundary proposed by the zoning commission.

(c) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots, or from the street frontage of the opposite lots.

(d) After the commissioners court receives the protest, the court shall hold a public hearing. The court shall publish notice in the manner provided by Subsection (a). (V.A.C.S. Art. 2372l-1, Sec. 6.)

Sec. 231.038. SPECIAL EXCEPTION. (a) Any of the following persons may petition the commissioners court for a special exception to a zoning regulation adopted by the commissioners court:

(1) a person aggrieved by the regulation; or

(2) any officer, department, board, or bureau of the county or of a municipality in the county.

(b) The commissioners court shall hold a public hearing on the petition and shall publish notice of the hearing before the 15th day before the date of the hearing in a newspaper of general circulation in the county.

(c) Except as provided by Subsection (d), the commissioners court may grant a petition for a special exception by majority vote.

(d) If a proposed special exception to a zoning regulation is protested in accordance with this subsection, the proposed special exception must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be presented at the hearing and signed by the owners of at least 20 percent of:

(1) the lots covered by the proposed exception; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed exception extending 200 feet from those lots, or from the street frontage of the opposite lots. (V.A.C.S. Art. 2372l-1, Sec. 7.)

Sec. 231.039. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter or a zoning regulation. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day that a violation occurs constitutes a separate offense. Trial shall be in the district court.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful action or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, other structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises. (V.A.C.S. Art. 2372l-1, Sec. 8.)

Sec. 231.040. **CONFLICT WITH OTHER LAWS; EXCEPTIONS.** (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of a lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter or to restrict the right of a landowner, acting in the owner's behalf, to construct improvements for agricultural purposes or to otherwise use the land for agricultural purposes except the commissioners court may take those actions to restrict or prohibit any commercial agricultural enterprise such as a feed lot.

(c) This subchapter, an order adopted under this subchapter, or a zoning regulation does not apply to the location, construction, maintenance, or use of central office buildings or equipment used by a person engaged in providing telephone service to the public. (V.A.C.S. Art. 2372l-1, Secs. 4 (part), 9, 10.)

[Sections 231.041-231.050 reserved for expansion]

SUBCHAPTER D. MILITARY ZONES

Sec. 231.051. **DEFINITION.** In this subchapter, "military establishment" means a base, camp, station, yard, or section base of the United States Navy or the United States Coast Guard. (V.A.C.S. Art. 6889-2, Sec. 1.)

Sec. 231.052. **ESTABLISHMENT OF MILITARY ZONE.** (a) The commissioners court of a county in which a military establishment is located may create a restricted military zone adjacent to the military establishment. The court shall set forth the boundaries of the zone in its minutes. A military zone may not extend more than one mile from the boundary line of the military establishment.

(b) Appropriate signs must be posted along each road or way leading into the zone to indicate that the zone is a restricted area. (V.A.C.S. Art. 6889-2, Secs. 2, 3.)

Sec. 231.053. **REGULATIONS.** (a) The commissioners court may adopt regulations relating to the speed and parking of motor vehicles and the taking of photographs in the zone.

(b) The court may authorize the civilian or military guards at a military establishment to enforce the regulations for the zone for that military establishment. (V.A.C.S. Art. 6889-2, Secs. 4, 5.)

Sec. 231.054. **PENALTY.** A person commits an offense if the person violates a regulation adopted under this subchapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or by confinement in county jail for a term of not less than 10 days or more than two years. (V.A.C.S. Art. 6889-2, Sec. 6.)

[Sections 231.055-231.070 reserved for expansion]

SUBCHAPTER E. ZONING AROUND CERTAIN LAKES

Sec. 231.071. **PURPOSE.** The powers granted under this subchapter are for the purpose of protecting the public health, safety, welfare, and morals. (V.A.C.S. Art. 1581i, Sec. 5(a) (part).)

Sec. 231.072. **DEFINITIONS.** In this subchapter:

(1) "Lake" means an inland body of standing water, including a reservoir formed by impounding the water of a river or creek but not including an impoundment of salt water or brackish water, that:

(A) has a storage capacity of more than one million acre-feet; and

(B) is owned in whole or part by a political subdivision of this state, including a special-purpose district or authority.

(2) "Lake area" means the area within 5,000 feet of where the shoreline of a lake would be if the lake were filled to its storage capacity. (V.A.C.S. Art. 1581i, Sec. 1.)

Sec. 231.073. LAKE COVERED BY SUBCHAPTER. This subchapter applies only to a lake that has a construction completion date after June 12, 1985. (V.A.C.S. Art. 1581i, Sec. 2.)

Sec. 231.074. ZONING AND BUILDING CONSTRUCTION ORDINANCES. (a) The commissioners court of a county may adopt ordinances, not inconsistent with state law, that apply only to the lake area in the county and that regulate:

- (1) the height, number of stories, or size of buildings;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards and other spaces;
- (4) population density;
- (5) the location and use of buildings and land for commercial, industrial, residential, or other purposes; and
- (6) building construction standards.

(b) The commissioners court may not regulate the use, design, or placement of public utility buildings, land, or facilities.

(c) The commissioners court may not regulate for siting or zoning purposes new manufactured or industrialized housing that is constructed to preemptive state or federal building standards in any manner that is different from regulation of site-built housing.

(d) The commissioners court shall adopt rules as necessary to carry out this subchapter. (V.A.C.S. Art. 1581i, Secs. 5(a) (part), (c); 9.)

Sec. 231.075. LOCAL OPTION ELECTION. (a) This subchapter applies only to a county in which a majority of the voters voting on the question approve this subchapter's grant of authority to the county. The commissioners court shall order and hold an election if the court is petitioned to do so under Section 231.076. The commissioners court may not order and hold the election on its own motion.

(b) If an election is held, the ballot shall be printed to provide for voting for or against the proposition: "Granting authority to the county to adopt zoning and building construction ordinances for the areas around lakes." (V.A.C.S. Art. 1581i, Sec. 3.)

Sec. 231.076. PETITION; VERIFICATION. (a) A petition for the local option election must include a statement worded substantially as provided by this subsection and located on each page of the petition preceding the space reserved for signatures: "This petition is to request that an election be held in (name of county) to authorize the county to adopt zoning and building construction ordinances for the areas around lakes."

(b) To be valid, a petition must be signed by registered voters of the county in a number equal to at least 10 percent of the number of votes received by all candidates for governor in the county in the most recent gubernatorial general election. The petition must also include each signer's current voter registration number, printed name, and residence address, including zip code.

(c) Each signer must enter beside the signature the date on which the petition is signed. A signature may not be counted if the signer fails to include the date or if the date of signing is before the 90th day before the date the petition is submitted to the commissioners court.

(d) Within five days after the date a petition is received in the office of the commissioners court, the commissioners court shall submit the petition for verification to the county clerk, who shall determine whether the petition meets the requirements imposed by this section. Within 30 days after the date the petition is submitted to the county clerk for verification, the county clerk shall certify in writing to the commissioners court whether the petition is valid. If the county clerk determines that the petition is invalid, the clerk shall state the reasons for that determination.

owns the lake or reservoir or an action of a municipality that applies to a lake area in the county, the municipal or special-purpose district action controls to the extent of the conflict. (V.A.C.S. Art. 1581i, Sec. 8.)

Sec. 231.083. ENFORCEMENT. (a) The county attorney or other prosecuting attorney representing the county in the district court may file an action to enjoin the violation or threatened violation of an ordinance adopted under this subchapter. The court may grant appropriate relief.

(b) If an ordinance adopted under this subchapter defines an offense, an offense under that order is a Class C misdemeanor. The offense shall be prosecuted in the same manner as an offense defined by state law. (V.A.C.S. Art. 1581i, Sec. 10.)

CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

- Sec. 232.001. PLAT REQUIRED
- Sec. 232.002. APPROVAL BY COUNTY REQUIRED
- Sec. 232.003. SUBDIVISION REQUIREMENTS
- Sec. 232.004. BOND REQUIREMENTS
- Sec. 232.005. ENFORCEMENT; PENALTY
- Sec. 232.006. EXCEPTIONS FOR COUNTIES WITH POPULATION OF MORE THAN 2.2 MILLION OR CONTIGUOUS COUNTIES
- Sec. 232.007. MANUFACTURED HOME RENTAL COMMUNITIES
- Sec. 232.008. CANCELLATION OF SUBDIVISION
- Sec. 232.009. REVISION OF PLAT

CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

Sec. 232.001. PLAT REQUIRED. (a) The owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to lay out a subdivision of the tract, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared.

(b) To be recorded, the plat must:

- (1) describe the subdivision by metes and bounds;
- (2) locate the subdivision with respect to an original corner of the original survey of which it is a part; and
- (3) state the dimensions of the subdivision and of each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.

(c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

(d) The plat must be filed and recorded with the county clerk of the county in which the tract is located. (V.A.C.S. Art. 6702-1, Secs. 2.401(a), (b), (c).)

Sec. 232.002. APPROVAL BY COUNTY REQUIRED. The commissioners court of the county in which the land is located must approve, by an order entered in the minutes of the court, a plat required by Section 232.001. The commissioners court may refuse to approve a plat if it does not meet the requirements prescribed by or under this chapter or if any bond required under this chapter is not filed with the county. (V.A.C.S. Art. 6702-1, Sec. 2.401(e); Sec. 12.002(b), Property Code.)

Sec. 232.003. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

- (1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(e) If the county clerk certifies that a petition is valid, the commissioners court shall order the election to be held on the first uniform election date authorized by Section 41.001, Election Code, that occurs after the 35th day after the date the court receives the county clerk's certification. (V.A.C.S. Art. 1581i, Sec. 4.)

Sec. 231.077. LAKE PLANNING COMMISSION. (a) A lake planning commission is established for each lake area in a county subject to this subchapter and is composed of:

- (1) three residents of the county who own land in the county, appointed by the county judge;
- (2) one resident of each commissioners precinct in the county, appointed by the county commissioner for that precinct; and
- (3) the mayor of each municipality that includes any part of that lake area in the county.

(b) Except for the initial appointed members, the appointed members of a commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(c) A commission annually shall elect a chairman and vice-chairman from its members. The commissioners court shall employ staff for the use of the commission in performing its functions. (V.A.C.S. Art. 1581i, Secs. 6(a), (b), (c), (f).)

Sec. 231.078. COMMISSION DUTIES; RULES. (a) The commissioners court may assign a lake planning commission any duties that the court considers appropriate and that are not inconsistent with this subchapter.

(b) The commissioners court shall adopt rules governing the operations of the commission. (V.A.C.S. Art. 1581i, Sec. 6(g).)

Sec. 231.079. COMMISSION STUDIES; REPORTS; HEARINGS. (a) At the request of the commissioners court, a lake planning commission shall, or on its own initiative a commission may, conduct studies of the lake area over which it has jurisdiction and prepare reports to advise the commissioners court about the boundaries of the original zoned districts, other regulations for the lake area, and changes to those districts or regulations.

(b) Before the commission may prepare a report, it must hold a public hearing at which members of the public may present testimony about any subject to be included in the commission's report. The commission shall give notice of the hearing as required by the commissioners court.

(c) If a report will advise the commissioners court about proposed action regarding the zoning classification of a parcel of land, the commission shall send written notice to each landowner, as listed on the county tax rolls, whose land is directly affected by the proposed action or whose land is located within 200 feet of land directly affected. The notice must inform the landowner of the time and place of the public hearing at which the landowner may present testimony to the commission about the proposed action and must be deposited in the United States mail before the 10th day before the date of the hearing. (V.A.C.S. Art. 1581i, Secs. 6(d), (e).)

Sec. 231.080. ADOPTION OF ORDINANCE AFTER RECEIPT OF REPORT. The commissioners court may adopt a proposed ordinance only after the court receives a lake planning commission's report prepared under Section 231.079 relating to the proposed ordinance. (V.A.C.S. Art. 1581i, Sec. 5(b).)

Sec. 231.081. SPECIAL EXCEPTIONS. (a) The commissioners court may grant a special exception to an ordinance adopted under this subchapter if the court finds that the grant of the special exception will not be contrary to the public interest and that a literal enforcement of the ordinance would result in an unnecessary hardship.

(b) The commissioners court shall adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception. (V.A.C.S. Art. 1581i, Sec. 7.)

Sec. 231.082. CONFLICT WITH OTHER ACTION. If an ordinance adopted under this subchapter conflicts with an action of a special-purpose district or authority that

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices; and

(6) require that the owner of the tract to be subdivided execute a good and sufficient bond in the manner provided by Section 232.004. (V.A.C.S. Art. 6702-1, Sec. 2.401(d) (part).)

Sec. 232.004. **BOND REQUIREMENTS.** If the commissioners court requires the owner of the tract to execute a bond, the owner must do so before subdividing the tract. The bond must:

(1) be payable to the county judge of the county in which the subdivision will be located or to the judge's successors in office;

(2) be in an amount determined by the commissioners court to be adequate to ensure proper construction of the roads and streets in the subdivision, but not to exceed the estimated cost of construction of the roads and streets;

(3) be executed with sureties as may be approved by the court;

(4) be executed by a company authorized to do business as a surety in this state if the court requires a surety bond executed by a corporate surety; and

(5) be conditioned that the roads and streets will be constructed:

(A) in accordance with the specifications adopted by the court; and

(B) within a reasonable time set by the court. (V.A.C.S. Art. 6702-1, Sec. 2.401(d) (part).)

Sec. 232.005. **ENFORCEMENT; PENALTY.** (a) At the request of the commissioners court, the county attorney or other prosecuting attorney for the county may file an action in a court of competent jurisdiction to:

(1) enjoin the violation or threatened violation of a requirement established by or adopted by the commissioners court under Sections 232.001-232.004; or

(2) recover damages in an amount adequate for the county to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by the commissioners court under Sections 232.001-232.004.

(b) A person commits an offense if the person knowingly or intentionally violates a requirement established by or adopted by the commissioners court under Sections 232.001-232.004. An offense under this subsection is a Class B misdemeanor.

(c) A requirement that was established by or adopted under Chapter 436, Acts of the 55th Legislature, Regular Session, 1957 (Article 6626a, Vernon's Texas Civil Statutes), or Chapter 151, Acts of the 52nd Legislature, Regular Session, 1951 (Article 2372k, Vernon's Texas Civil Statutes), before September 1, 1983, and that, after that date, continues to apply to a subdivision of land is enforceable under Subsection (a). A knowing or intentional violation of the requirement is an offense under Subsection (b). (V.A.C.S. Art. 6702-1, Sec. 2.401(f).)

Sec. 232.006. **EXCEPTIONS FOR COUNTIES WITH POPULATION OF MORE THAN 2.2 MILLION OR CONTIGUOUS COUNTIES.** (a) This section applies to a county:

(1) that has a population of more than 2.2 million or is contiguous with a county that has a population of more than 2.2 million; and

(2) in which the commissioners court by order elects to operate under this section.

(b) If a county elects to operate under this section, Section 232.005 does not apply to the county. Sections 232.001-232.004 do apply to the county in the same manner that they apply to other counties except that:

(1) they apply only to tracts of land located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42;

(2) the commissioners court of the county, instead of having the powers granted by Sections 232.003(2) and (3), may:

(A) require a right-of-way on a street or road that does not function as a main artery in the subdivision of not less than 40 feet or more than 50 feet; and

(B) require that the street cut on a main artery within the right-of-way be not less than 30 feet or more than 45 feet, and that the street cut on any other street or road within the right-of-way be not less than 25 feet or more than 35 feet; and

(3) Section 232.004(5)(B) does not apply to the county. (V.A.C.S. Art. 6702-1, Sec. 2.402.)

Sec. 232.007. MANUFACTURED HOME RENTAL COMMUNITIES. (a) In this section, "manufactured home rental community" means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

(b) A manufactured home rental community is not a subdivision, and Sections 232.001-232.006 do not apply to the community. (V.A.C.S. Art. 6702-1, Sec. 2.403.)

Sec. 232.008. CANCELLATION OF SUBDIVISION. (a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42.

(b) A person owning real property in this state that has been subdivided into lots and blocks or into small subdivisions may apply to the commissioners court of the county in which the property is located for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the commissioners court by order shall authorize the owner of the subdivision to file an instrument canceling the subdivision in whole or in part. The instrument must describe the subdivision or the part of it that is canceled. The court shall enter the order in its minutes. After the cancellation instrument is filed and recorded in the deed records of the county, the county tax assessor-collector shall assess the property as if it had never been subdivided.

(c) The commissioners court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the county for at least three weeks before the date on which action is taken on the application. The court shall take action on an application at a regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.

(d) If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this section, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided. For the purpose of assessing the tract for a preceding year, the county tax assessor-collector shall back assess the tract on an acreage basis.

(e) On application for cancellation of a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of 75 percent of the property included in the subdivision, phase, or identifiable part, the commissioners court by order shall authorize the cancellation in the manner and after notice and a hearing as provided by Subsections (b) and (c). However, if the owners of at least 10 percent of the property affected by the proposed cancellation file written objections to the cancellation with the court, the grant of an order of cancellation is at the discretion of the court.

(f) To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:

(1) abuts directly on the part of the roadway or easement to be canceled or closed; or

(2) is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to:

(A) the nearest remaining public highway, county road, or access road to the public highway or county road; or

(B) any uncanceled common amenity of the subdivision.

(g) A person who appears before the commissioners court to protest the cancellation of all or part of a subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the canceled subdivision or part of the subdivision. The person must bring the action within one year after the date of the entry of the commissioners court's order granting the cancellation. (V.A.C.S. Art. 6626d.)

Sec. 232.009. REVISION OF PLAT. (a) A person who has subdivided land that is subject to the subdivision controls of the county in which the land is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat filed for record with the county clerk.

(b) After the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. If all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(c) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has agreed to the revision.

(d) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat. (V.A.C.S. Art. 6626e.)

CHAPTER 233. AUTHORITY OF COUNTIES TO ESTABLISH BUILDING AND SET-BACK LINES

- Sec. 233.001. COUNTIES AFFECTED
- Sec. 233.002. POWERS AND DUTIES OF COMMISSIONERS COURT
- Sec. 233.003. HEARING; ADOPTION OF PLAN
- Sec. 233.004. NOTICE; LIMITATIONS PERIOD
- Sec. 233.005. BOARD OF BUILDING LINE ADJUSTMENT
- Sec. 233.006. ENFORCEMENT
- Sec. 233.007. APPEAL

CHAPTER 233. AUTHORITY OF COUNTIES TO ESTABLISH BUILDING AND SET-BACK LINES

Sec. 233.001. COUNTIES AFFECTED. This chapter applies to a county that:

(1) has a population of 350,000 or more; and

(2) is adjacent to another county that has a population of 350,000 or more. (V.A.C. S. Art. 6812c, Sec. 1 (part).)

Sec. 233.002. POWERS AND DUTIES OF COMMISSIONERS COURT. (a) If the commissioners court of the county determines that the general welfare will be promoted, the court may:

- (1) establish building or set-back lines on each major highway or road in the county;
- (2) prohibit the location of a new building outside the corporate limits of a municipality within those building or set-back lines; and
- (3) amend the building or set-back lines as provided by this chapter.

(b) A building or set-back line established under this chapter may not extend more than 150 feet from the center line of the related highway or road. (V.A.C.S. Art. 6812c, Sec. 1 (part).)

Sec. 233.003. HEARING; ADOPTION OF PLAN. (a) Before adopting a plan for the regulation of major highways and the establishment of related building or set-back lines, the commissioners court must hold at least one public hearing on the plan. The court shall publish notice of the time and place of the hearing in a newspaper of general circulation in the county before the 15th day before the date of the hearing. The court may adjourn the hearing from time to time.

(b) The commissioners court may adopt a major highway plan and a building or set-back line only by a resolution passed by at least a majority vote of the full membership of the court. The court shall establish a building or set-back line by an order passed by at least a majority vote of the full membership of the court.

(c) The commissioners court shall file with the county clerk an attested copy of each major highway plan adopted under this section.

(d) After giving notice and conducting a hearing as provided by this section, the commissioners court may amend the plan and the related building or set-back lines only by a vote of at least a majority of the membership of the court. (V.A.C.S. Art. 6812c, Sec. 2.)

Sec. 233.004. NOTICE; LIMITATIONS PERIOD. (a) An owner of real property that fronts along a highway or road that has a building or set-back line established under this chapter is charged with notice of the building line order.

(b) The commissioners court shall show in a general manner each building line established under this chapter on a map filed with the county clerk. The court shall also publish notice of each building line in a newspaper of general circulation in the county and shall post a similar notice in at least three conspicuous places along each affected highway.

(c) If the county does not begin the construction of the improvement or widening of a road along which a building or set-back line has been established within four years after the date the building or set-back line is established, the building or set-back line becomes void, unless the county and the affected property owners agree to extend the time period for the improvements or widening. (V.A.C.S. Art. 6812c, Sec. 3.)

Sec. 233.005. BOARD OF BUILDING LINE ADJUSTMENT. (a) The commissioners court may appoint a board of building line adjustment consisting of five freeholders of the county. Members must be appointed for staggered terms of two years, with two members' terms expiring in one year and three members' terms expiring the next year. However, in making the initial appointments, the commissioners court shall designate two members for one-year terms and three members for two-year terms. The court may remove a member for cause on a written charge after a public hearing. The court shall fill a vacancy on the board for the unexpired term of the member whose term becomes vacant.

(b) The board shall elect its own chairman and shall adopt rules of procedure. The meetings of the board are open to the public. The board shall keep minutes of its proceedings that shall be filed in the board's office. The minutes of board meetings constitute a public record.

(c) Subject to appropriate conditions and safeguards, the board may modify or vary the regulations affecting building or set-back lines in a case in which unnecessary hardship may result from a literal enforcement of those regulations, in order to do

substantial justice and to observe the purpose of the regulations in protecting the public welfare and safety.

(d) The board shall hear and decide an appeal in a case in which, because of exceptional narrowness, shallowness, shape, topography, existing building development, or another exceptional and extraordinary situation or condition of a specific piece of property, the strict application of a building line established under this chapter would result in peculiar and exceptional difficulties or hardships to the owner of the property. On appeal, the board may authorize a variance from the strict application of the regulation, under conditions imposed by the board, to relieve the hardship or difficulty if that relief can be granted without substantially impairing the intent and purpose of the building line or set-back line.

(e) With appropriate safeguards, the board shall authorize the construction of an improvement or a structure that may encroach on a building or set-back line. However, if the county proceeds with projected improvements of the affected road within the time provided by Subsection (c) of Section 233.004, the owner of the improvement or structure must remove it at no expense to the county. (V.A.C.S. Art. 6812c, Sec. 4.)

Sec. 233.006. ENFORCEMENT. If a structure is erected, constructed, or reconstructed in violation of a building or set-back line established under this chapter, the commissioners court, the district or county attorney, or an owner of real property in the county may institute an injunction, mandamus, abatement, or other appropriate action to prevent, abate, remove, or enjoin the unlawful erection, construction, or reconstruction. (V.A.C.S. Art. 6812c, Sec. 5.)

Sec. 233.007. APPEAL. (a) An owner of property who is aggrieved by an action or order adopted by the board of building line adjustment may appeal to the commissioners court. The person must bring the appeal within 30 days after the date the action or order was adopted.

(b) A property owner in the county who is aggrieved by a final order of the board or of the commissioners court may appeal to the district court or to another court with proper jurisdiction. The appellant must bring the appeal within 30 days after the date on which the final order in question was adopted. The appellant must execute an appeal bond in an amount fixed by the court. (V.A.C.S. Art. 6812c, Sec. 6.)

CHAPTER 234. COUNTY REGULATION OF OUTDOOR LIGHTING
NEAR OBSERVATORIES

Sec. 234.001. DEFINITIONS

Sec. 234.002. COUNTY REGULATORY AUTHORITY; ADOPTION OF ORDERS

Sec. 234.003. REGULATION OF SUBDIVISIONS

Sec. 234.004. EXEMPTION

Sec. 234.005. ENFORCEMENT; PENALTY

CHAPTER 234. COUNTY REGULATION OF OUTDOOR LIGHTING
NEAR OBSERVATORIES

Sec. 234.001. DEFINITIONS. In this chapter:

(1) "Major astronomical observatory" means a facility that is established to conduct scientific observations of astronomical phenomena and is equipped with a telescope that has an aperture at least 75 inches in diameter.

(2) "Outdoor lighting" means any type of fixed or movable lighting equipment that is designed or used for illumination out of doors. The term includes billboard lighting, street lights, searchlights and other lighting used for advertising purposes, and area lighting. The term does not include lighting equipment that is required by law to be installed on motor vehicles or lighting required for the safe operation of aircraft.

(3) "Person" means an individual, corporation, or association. (V.A.C.S. Art. 2372u, Sec. 1; New.)

Sec. 234.002. COUNTY REGULATORY AUTHORITY; ADOPTION OF ORDERS. (a) On the request of the director of McDonald Observatory, the commissioners court of a county may adopt orders regulating the installation and use of outdoor lighting that is in

any unincorporated territory of a county and that is within 75 miles of a major astronomical observatory. The orders must be designed to protect against the use of outdoor lighting in a way that interferes with scientific astronomical research.

(b) In the orders, the commissioners court may:

(1) require that a permit be obtained from the county before the installation and use of certain types of outdoor lighting in a regulated area;

(2) establish a fee for the issuance of the permit;

(3) prohibit the use of a type of outdoor lighting that is incompatible with the effective use of the observatory;

(4) establish requirements for the shielding of outdoor lighting; and

(5) regulate the times during which certain types of outdoor lighting may be used.

(c) The commissioners court may apply more stringent standards for areas in which the use of outdoor lighting has a greater impact on observatory activities.

(d) The commissioners court may adopt an order under this chapter only after conducting a public hearing on the proposed order. The court shall give at least two weeks' public notice of the hearing. (V.A.C.S. Art. 2372u, Secs. 2, 4, 5.)

Sec. 234.003. REGULATION OF SUBDIVISIONS. (a) This section applies only to real estate subdivisions that are subject to the plat approval authority of a commissioners court and that are located within 75 miles of a major astronomical observatory.

(b) A commissioners court may adopt orders establishing standards relating to proposed subdivisions in order to minimize the interference with observatory activities caused by outdoor lighting. The commissioners court may not approve a plat of a proposed subdivision that does not meet the standards. (V.A.C.S. Art. 2372u, Sec. 3.)

Sec. 234.004. EXEMPTION. This chapter does not apply to outdoor lighting in existence or under construction on September 1, 1975. (V.A.C.S. Art. 2372u, Sec. 6.)

Sec. 234.005. ENFORCEMENT; PENALTY. (a) A county or district attorney may sue in the district court to enjoin a violation of this chapter.

(b) A person who violates an order adopted under this chapter commits an offense. An offense under this section is a Class C misdemeanor.

(c) Both civil and criminal enforcement may be used against the same conduct. (V.A.C.S. Art. 2372u, Sec. 7.)

[Chapters 235–239 reserved for expansion]

CHAPTER 240. MISCELLANEOUS REGULATORY AUTHORITY OF COUNTIES

SUBCHAPTER A. REGULATION OF KEEPING OF WILD ANIMALS

Sec. 240.001. DEFINITION

Sec. 240.002. REGULATION

Sec. 240.003. OFFENSE

Sec. 240.004. INJUNCTION

[Sections 240.005–240.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 240.901. LAND USE REGULATION FOR FLOOD CONTROL IN COASTAL COUNTIES

Sec. 240.902. CLOSING OF GULF BEACHES

CHAPTER 240. MISCELLANEOUS REGULATORY AUTHORITY OF COUNTIES

SUBCHAPTER A. REGULATION OF KEEPING OF WILD ANIMALS

Sec. 240.001. DEFINITION. In this subchapter, "wild animal" means a nondomestic animal that the commissioners court of a county determines is dangerous and is in need of control in that county. (V.A.C.S. Art. 2372y, Sec. 1.)

Sec. 240.002. REGULATION. (a) The commissioners court of a county by order may prohibit or regulate the keeping of a wild animal:

- (1) at a residence; or
- (2) within 1,000 feet of a residence or public school.

(b) The order does not apply inside the limits of a municipality. (V.A.C.S. Art. 2372y, Sec. 2.)

Sec. 240.003. OFFENSE. (a) A person commits an offense if the person violates an order adopted under this subchapter and the order defines the violation as an offense.

(b) An offense under this section is prosecuted in the same manner as an offense defined under state law.

(c) An offense under this section is a Class C misdemeanor. (V.A.C.S. Art. 2372y, Sec. 4.)

Sec. 240.004. INJUNCTION. The county attorney or an attorney representing the county may file an action in a district court to enjoin a violation or threatened violation of an order adopted under this subchapter. The court may grant appropriate relief. (V.A.C.S. Art. 2372y, Sec. 5.)

[Sections 240.005–240.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 240.901. LAND USE REGULATION FOR FLOOD CONTROL IN COASTAL COUNTIES. (a) This state recognizes the personal hardships and economic distress caused by flood disasters since it has become uneconomical for the private insurance industry alone to make flood insurance available to those in need of protection on reasonable terms and conditions. Recognizing the burden on the nation's resources, congress enacted the National Flood Insurance Act of 1968, under which flood insurance can be made available through the coordinated efforts of the federal government and the private insurance industry by pooling risks and by the positive cooperation of state and local governments. The purpose of this subchapter is to evidence a positive interest in securing flood insurance coverage under the federal program, thus procuring coverage for the citizens of this state who desire to participate, to promote the public interest by providing appropriate protection against the perils of flood losses, and to encourage sound land use by minimizing exposure of property to flood losses.

(b) A county bordering on the Gulf of Mexico or on the tidewater limits of the gulf may determine the boundaries of any flood-prone area of the county. The suitability of that determination is conclusively established when the commissioners court of the county adopts a resolution finding that the area is a flood-prone area.

(c) The commissioners court may adopt and enforce rules that regulate the management and use of land, structures, and other development in a flood-prone area of the county in order to reduce the extent of damage caused by flooding. The matters to which the rules may apply include:

- (1) the floodproofing of structures located or to be constructed in the area;
- (2) the minimum elevation of a structure permitted to be constructed or improved in the area;
- (3) specifications for drainage; and
- (4) any other action feasible to minimize flooding and rising water damage.

(d) In this section, "flood-prone area" means an area that is subject to damage from rising water or flooding from the Gulf of Mexico or its tidal waters, including lakes, bays, inlets, and lagoons. (V.A.C.S. Art. 1581e-1.)

Sec. 240.902. CLOSING OF GULF BEACHES. (a) The commissioners court of a county in which a public beach is located may by order close a part of the beach for a maximum of three days each year to allow a nonprofit organization to hold an event on the beach to which the public is invited and to which the organization charges no more than a nominal admission fee.

(b) In this section, “public beach” means a beach located on a bay or inlet of the Gulf of Mexico to which the general public or a substantial part of the general public has free access. (V.A.C.S. Art. 2372x.)

SUBTITLE C. REGULATORY AUTHORITY APPLYING TO MORE THAN ONE
TYPE OF LOCAL GOVERNMENT

CHAPTER 241. MUNICIPAL AND COUNTY ZONING
AUTHORITY AROUND AIRPORTS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 241.001. SHORT TITLE
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SUBCHAPTER B. ADOPTION OF AIRPORT ZONING REGULATIONS

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- Sec. 241.014. JOINT AIRPORT ZONING BOARD
- Sec. 241.015. INCORPORATION OF AIRPORT ZONING REGULATION INTO COMPREHENSIVE ZONING ORDINANCE
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- Sec. 241.018. REASONABLENESS OF AIRPORT ZONING REGULATIONS
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- Sec. 241.020. PERMITS

[Sections 241.021–241.030 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE AGENCY AND BOARD OF ADJUSTMENT

- Sec. 241.031. ADMINISTRATIVE AGENCY
- Sec. 241.032. BOARD OF ADJUSTMENT
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[Sections 241.037–241.040 reserved for expansion]

SUBCHAPTER D. JUDICIAL REVIEW AND OTHER REMEDIES

- Sec. 241.041. JUDICIAL REVIEW OF BOARD DECISION
- Sec. 241.042. TRIAL BY COURT
- Sec. 241.043. EFFECT OF HOLDING OF THE COURT
- Sec. 241.044. ADDITIONAL REMEDIES

[Sections 241.045–241.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 241.901. CONFLICT OF AN AIRPORT HAZARD AREA ZONING REGULATION WITH ANOTHER REGULATION

Sec. 241.902. CONFLICT OF AN AIRPORT COMPATIBLE LAND USE ZONING REGULATION WITH ANOTHER REGULATION

Sec. 241.903. ACQUISITION OF AIR RIGHTS OR OTHER PROPERTY

SUBTITLE C. REGULATORY AUTHORITY APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 241. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND AIRPORTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 241.001. SHORT TITLE. This chapter may be cited as the Airport Zoning Act. (V.A.C.S. Art. 46e-15.)

Sec. 241.002. LEGISLATIVE FINDINGS. The legislature finds that:

- (1) an airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;
- (2) an airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, tending to destroy or impair the utility of the airport and the public investment in the airport;
- (3) the creation of an airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;
- (4) it is necessary in the interest of the public health, public safety, and general welfare to prevent the creation of an airport hazard;
- (5) the creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation; and
- (6) the prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, or the marking and lighting of an airport hazard are public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land. (V.A.C.S. Art. 46e-2.)

Sec. 241.003. DEFINITIONS. In this chapter:

- (1) "Airport" means an area of land or water, publicly or privately owned, designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for that purpose. The term includes an area with installations relating to flights, including installations, facilities, and bases of operations for tracking flights or acquiring data concerning flights.
- (2) "Airport hazard" means a structure or object of natural growth that obstructs the air space required for the taking off, landing, and flight of aircraft or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.
- (3) "Airport hazard area" means an area of land or water on which an airport hazard could exist.
- (4) "Airport zoning regulation" means an airport hazard area zoning regulation and an airport compatible land use zoning regulation adopted under this chapter.
- (5) "Centerline" means a line extending through the midpoint of each end of a runway.
- (6) "Compatible land use" means a use of land adjacent to an airport that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the airport, including the taking off and landing of aircraft.
- (7) "Controlled compatible land use area" means an area of land located outside airport boundaries and within a rectangle bounded by lines located no farther than 1-1/2 statute miles from the centerline of an instrument or primary runway and lines located no farther than five statute miles from each end of the paved surface of an instrument or primary runway.

(8) "Instrument runway" means an existing or planned runway of at least 3,200 feet for which an instrument landing procedure published by a defense agency of the federal government or the Federal Aviation Administration exists or is planned.

(9) "Obstruction" means a structure, growth, or other object, including a mobile object, that exceeds a limiting height established by federal regulations or by an airport hazard area zoning regulation.

(10) "Political subdivision" means a municipality or county.

(11) "Primary runway" means an existing or planned paved runway, as shown in the official airport layout plan (ALP) of the airport, of at least 3,200 feet on which a majority of the approaches to and departures from the airport occur.

(12) "Runway" means a defined area of an airport prepared for the landing and taking off of aircraft along its length.

(13) "Structure" means an object constructed or installed by one or more persons and includes a building, tower, smokestack, and overhead transmission line. (V.A.C.S. Art. 46e-1 (part); Art. 46e-3, Sec. (3) (part).)

Sec. 241.004. AIRPORT USED IN INTEREST OF PUBLIC. For the purposes of this chapter, an airport is used in the interest of the public if:

(1) the owner of the airport, by contract, license, or otherwise, permits the airport to be used by the public to an extent that the airport fulfills an essential community purpose; or

(2) the airport is used by the state or an agency of the state or by the United States for national defense purposes or for any federal program relating to flight. (V.A.C.S. Art. 46e-1 (part).)

Sec. 241.005. ADOPTION OF REGULATION INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this chapter to the adoption of an airport zoning regulation includes the amendment, repeal, or other change of a regulation. A reference to the adoption of an airport zoning regulation also includes the amendment of an airport zoning regulation existing on the date the law codified by this chapter took effect, which was September 5, 1947. (New.)

[Sections 241.006–241.010 reserved for expansion]

SUBCHAPTER B. ADOPTION OF AIRPORT ZONING REGULATIONS

Sec. 241.011. AIRPORT HAZARD AREA ZONING REGULATIONS. (a) To prevent the creation of an airport hazard, a political subdivision in which an airport hazard area is located may adopt, administer, and enforce, under its police power, airport hazard area zoning regulations for the airport hazard area.

(b) The airport hazard area zoning regulations may divide an airport hazard area into zones and for each zone:

(1) specify the land uses permitted;

(2) regulate the type of structures; and

(3) restrict the height of structures and objects of natural growth to prevent the creation of an obstruction to flight operations or air navigation. (V.A.C.S. Art. 46e-3, Sec. (1).)

Sec. 241.012. AIRPORT COMPATIBLE LAND USE ZONING REGULATIONS. (a) A political subdivision may adopt, administer, and enforce, under its police power, airport compatible land use zoning regulations for the part of a controlled compatible land use area located within the political subdivision if the airport is:

(1) used in the interest of the public to the benefit of the political subdivision; or

(2) located within the political subdivision and owned or operated by a federal defense agency or by the state.

(b) The political subdivision by ordinance or resolution may implement, in connection with airport compatible land use zoning regulations, any federal law or rules controlling the use of land located adjacent to or in the immediate vicinity of the airport.

(c) The airport compatible land use zoning regulations must include a statement that the airport fulfills an essential community purpose. (V.A.C.S. Art. 46e-3, Sec. (3) (part).)

Sec. 241.013. EXTRATERRITORIAL ZONING IN POLITICAL SUBDIVISIONS WITH POPULATION OF MORE THAN 50,000. (a) A political subdivision with a population of more than 50,000 in which an airport used in the interest of the public to the benefit of the political subdivision is located may adopt, administer, and enforce:

(1) airport hazard area zoning regulations applicable to an airport hazard area relating to the airport and located outside the political subdivision; and

(2) airport compatible land use zoning regulations applicable to a controlled compatible land use area relating to the airport and located outside the political subdivision.

(b) The political subdivision has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections 241.011 and 241.012.

(c) The airport hazard area zoning regulations or airport compatible land use zoning regulations must include a statement that the airport fulfills an essential community purpose. (V.A.C.S. Art. 46e-3, Sec. (2) (part).)

Sec. 241.014. JOINT AIRPORT ZONING BOARD. (a) A political subdivision to whose benefit an airport is used in the interest of the public or in which an airport owned or operated by a defense agency of the federal government or the state is located may create a joint airport zoning board with another political subdivision in which an airport hazard area or a controlled compatible land use area relating to the airport is located. The political subdivisions must act by resolution or ordinance in creating the joint board.

(b) The joint airport zoning board has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections 241.011 and 241.012.

(c) The joint airport zoning board must consist of two members appointed by each of the political subdivisions creating the board and, in addition, a chairman elected by a majority of the appointed members.

(d) If an agency of the state owns and operates an airport located within an airport hazard area or controlled compatible land use area governed by a joint airport zoning board, the agency is entitled to have two members on the board. (V.A.C.S. Art. 46e-3, Sec. (2) (part).)

Sec. 241.015. INCORPORATION OF AIRPORT ZONING REGULATION INTO COMPREHENSIVE ZONING ORDINANCE. A political subdivision may incorporate an airport zoning regulation in a comprehensive zoning ordinance and administer and enforce it in connection with the administration and enforcement of the comprehensive zoning ordinance if:

(1) the two zoning regulations apply, in whole or in part, to the same area; and

(2) the comprehensive zoning ordinance includes, among other matters, a regulation on the height of buildings. (V.A.C.S. Art. 46e-4, Sec. (1).)

Sec. 241.016. AIRPORT ZONING COMMISSION. (a) Before an airport zoning regulation may be adopted, a political subdivision or joint airport zoning board must appoint an airport zoning commission. If the political subdivision has a planning commission or comprehensive zoning commission, that commission may be designated as the airport zoning commission.

(b) The commission shall recommend the boundaries of the zones to be established and the regulations for these zones.

(c) The commission shall make a preliminary report and hold public hearings on the report before submitting a final report.

(d) Before the 15th day before the date of a hearing under Subsection (c), notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the airport hazard area or controlled compatible land use area to be zoned is located. (V.A.C.S. Art. 46e-5, Sec. (2) (part).)

Sec. 241.017. PROCEDURAL LIMITATIONS APPLYING TO ADOPTION OF ZONING REGULATIONS. (a) The governing body of a political subdivision or a joint airport zoning board may not hold a public hearing or take other action concerning an airport zoning regulation until it receives the final report of the airport zoning commission.

(b) An airport zoning regulation may not be adopted except by action of the governing body of the political subdivision or a joint airport zoning board after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.

(c) Before the 15th day before the date of a hearing under Subsection (b), notice of the hearing must be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the area to be zoned is located. (V.A.C.S. Art. 46e-5, Secs. (1), (2) (part).)

Sec. 241.018. REASONABLENESS OF AIRPORT ZONING REGULATIONS. (a) An airport zoning regulation must be reasonable and may impose a requirement or restriction only if the requirement or restriction is reasonably necessary to achieve the purposes of this chapter.

(b) In determining which airport zoning regulations to adopt, the governing body of a political subdivision or a joint airport zoning board shall consider, among other things:

- (1) the character of the flying operations expected to be conducted at the airport;
- (2) the nature of the terrain within the airport hazard area;
- (3) the character of the neighborhood; and
- (4) the current and possible uses of the property to be zoned. (V.A.C.S. Art. 46e-6, Sec. (1).)

Sec. 241.019. NONCONFORMING USES AND STRUCTURES. Except as provided by Section 241.035, airport zoning regulations may not require:

- (1) changes in nonconforming land use existing on the date of the adoption of the regulations;
- (2) the removal, lowering, or other change of a structure that does not conform to the regulations on the date of their adoption, including all phases or elements of a multiphase structure, regardless of whether actual construction has commenced, that received a determination of no hazard by the Federal Aviation Administration under 14 C.F.R., Part 77, before the regulations were adopted;
- (3) the removal, lowering, or other change of an object of natural growth that does not conform to the regulations on the date of their adoption; or
- (4) any other interference in the continuation of a use that does not conform to the regulations on the date of their adoption. (V.A.C.S. Art. 46e-6, Sec. (2).)

Sec. 241.020. PERMITS. (a) Airport zoning regulations may require that a permit be obtained before:

- (1) a new structure is constructed;
- (2) an existing structure is substantially changed or repaired;
- (3) a new use is established; or
- (4) an existing use is substantially changed.

(b) Airport zoning regulations must provide that a permit be obtained from the administrative agency authorized to administer and enforce the regulations before:

- (1) a nonconforming structure may be replaced, rebuilt, or substantially changed or repaired; or
- (2) a nonconforming object of natural growth may be replaced, substantially changed, allowed to grow higher, or replanted.

(c) A permit may not allow:

- (1) the establishment of an airport hazard;
- (2) a nonconforming use to be made;

(3) a nonconforming structure or object of natural growth to become higher than it was at the time of the adoption of the airport zoning regulations relating to the structure or object of natural growth or at the time of the application for the permit; or

(4) a nonconforming structure, object of natural growth, or use to become a greater hazard to air navigation than it was at the time of the adoption of the airport zoning regulations relating to the structure, object of natural growth, or use or at the time of the application for the permit.

(d) Except as provided by Subsection (c), an application for a permit shall be granted. (V.A.C.S. Art. 46e-7, Sec. (1).)

[Sections 241.021-241.030 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE AGENCY AND BOARD OF ADJUSTMENT

Sec. 241.031. ADMINISTRATIVE AGENCY. (a) Airport zoning regulations must provide for the administration and enforcement of the regulations by an administrative agency. The administrative agency may be:

(1) an agency created by the regulations;

(2) an existing official, board, or agency of the political subdivision adopting the regulations; or

(3) an existing official, board, or other agency of a political subdivision that participated in the creation of a joint airport zoning board adopting the regulations, if satisfactory to that political subdivision.

(b) The administrative agency may not be the board of adjustment or include any member of the board.

(c) The administrative agency shall hear and decide all applications for permits under Section 241.020.

(d) The agency may not exercise any of the powers delegated to the board of adjustment. (V.A.C.S. Art. 46e-9.)

Sec. 241.032. BOARD OF ADJUSTMENT. (a) Airport zoning regulations must provide for a board of adjustment.

(b) If a zoning board of appeals or adjustment exists, it may be designated as the board of adjustment under this chapter.

(c) If a zoning board of appeals or adjustment does not exist or is not designated as the board of adjustment under this chapter, a board of adjustment must be appointed. The board must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(d) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of the administrative agency;

(2) decide in favor of an applicant on a matter on which the board is required to pass under an airport zoning regulation; or

(3) make a variation in an airport zoning regulation.

(e) The board shall adopt rules in accordance with the ordinance or resolution that created it.

(f) Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All hearings of the board shall be open to the public.

(g) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records. (V.A.C.S. Art. 46e-10, Secs. (1) (part), (2), (3), (4).)

Sec. 241.033. **AUTHORITY OF BOARD.** The board of adjustment shall:

- (1) hear and decide an appeal, as provided by Section 241.036, from an order, requirement, decision, or determination made by the administrative agency in the enforcement of an airport zoning regulation;
- (2) hear and decide special exceptions to the terms of an airport zoning regulation when the regulation requires the board to do so; and
- (3) hear and decide specific variances under Section 241.034. (V.A.C.S. Art. 46e-10, Sec. (1) (part).)

Sec. 241.034. **VARIANCES.** (a) A person who desires to erect or increase the height of a structure, permit the growth of an object of natural growth, or otherwise use property in violation of an airport zoning regulation, may apply to the board of adjustment for a variance from the regulation.

(b) The board shall allow a variance from an airport zoning regulation if:

- (1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and
- (2) the granting of the relief would:
 - (A) result in substantial justice being done;
 - (B) not be contrary to the public interest; and
 - (C) be in accordance with the spirit of the regulation and this chapter.

(c) The board may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this chapter. (V.A.C.S. Art. 46e-7, Sec. (2).)

Sec. 241.035. **HAZARD MARKING AND LIGHTING.** If the administrative agency or board of adjustment considers it reasonable in the circumstances and advisable to accomplish the purposes of this chapter, the agency or board may require in a permit or a variance granted under this chapter that the owner of a structure or object of natural growth allow the political subdivision, at its own expense, to install, operate, and maintain on the structure or object of natural growth any markers and lights necessary to indicate to flyers the presence of an airport hazard. (V.A.C.S. Art. 46e-7, Sec. (3).)

Sec. 241.036. **APPEAL TO BOARD.** (a) A decision of the administrative agency made in its administration of an airport zoning regulation may be appealed to the board of adjustment by:

- (1) a person who is aggrieved by the decision;
- (2) a taxpayer who is affected by the decision; or
- (3) the governing body of a political subdivision or a joint airport zoning board that believes the decision is an improper application of the airport zoning regulation.

(b) The appellant must file with the board and the administrative agency a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the administrative agency shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the administrative agency certifies in writing to the board facts supporting the agency's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by an order of the board, after notice to the administrative agency, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

(e) The board may reverse or affirm, in whole or in part, or modify the administrative agency's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative agency. (V.A.C.S. Art. 46e-8.)

[Sections 241.037–241.040 reserved for expansion]

SUBCHAPTER D. JUDICIAL REVIEW AND OTHER REMEDIES

Sec. 241.041. JUDICIAL REVIEW OF BOARD DECISION. (a) A person who is aggrieved or a taxpayer who is affected by a decision of a board of adjustment, or the governing body of a political subdivision or a joint airport zoning board that believes a decision of a board of adjustment is illegal, may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality. The petition must be presented within 10 days after the date the decision is filed in the board's office.

(b) On the presentation of the petition, the court may grant a writ of certiorari directed to the board of adjustment to review the board's decision. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(c) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision that is appealed. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as provided by the writ. (V.A.C.S. Art. 46e–11, Secs. (1), (2), (3).)

Sec. 241.042. TRIAL BY COURT. (a) The court, in an appeal from a decision of a board of adjustment as provided by Section 241.041, shall try and determine the case de novo on the basis of the facts adduced in the trial of the case in the court. The court shall independently rule on the facts and the law as in an ordinary civil suit.

(b) The court has exclusive jurisdiction to reverse or affirm, in whole or in part, or modify the decision that is appealed and, if necessary, may order further proceedings by the board.

(c) Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision. (V.A.C.S. Art. 46e–11, Secs. (4), (5).)

Sec. 241.043. EFFECT OF HOLDING OF THE COURT. If the court holds that an airport zoning regulation, although generally reasonable, interferes with the use or enjoyment of a particular structure or parcel of land to such an extent that, or is so onerous in its application to a particular structure or parcel of land that, the application of the regulation constitutes a taking or deprivation of property in violation of the state or federal constitution, the holding does not affect the application of the regulation to any other structure or parcel of land. (V.A.C.S. Art. 46e–11, Sec. (6).)

Sec. 241.044. ADDITIONAL REMEDIES. (a) A political subdivision or joint airport zoning board adopting airport zoning regulations may bring an action in a court of competent jurisdiction to prevent, restrain, correct, or abate a violation of:

- (1) this chapter;
- (2) an airport zoning regulation adopted by the political subdivision or board; or
- (3) an order or ruling made in connection with the administration or enforcement of an airport zoning regulation adopted by the political subdivision or board.

(b) The court shall grant any relief, including an injunction which may be mandatory, as may be proper under all the facts and circumstances of the case to accomplish the purposes of this chapter and the regulations adopted and orders and rulings made under it. (V.A.C.S. Art. 46e–12.)

[Sections 241.045–241.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 241.901. CONFLICT OF AN AIRPORT HAZARD AREA ZONING REGULATION WITH ANOTHER REGULATION. (a) If an airport hazard area zoning regulation conflicts with any other regulation applicable to the same area, the more stringent limitation or requirement controls.

(b) Subsection (a) applies to any conflict with respect to the height of a structure or object of natural growth or any other matter.

(c) Subsection (a) applies to any regulation that conflicts with an airport hazard area zoning regulation whether the regulation was adopted by the political subdivision that adopted the airport zoning regulation or by another political subdivision. (V.A.C.S. Art. 46e-4, Sec. (2).)

Sec. 241.902. CONFLICT OF AN AIRPORT COMPATIBLE LAND USE ZONING REGULATION WITH ANOTHER REGULATION. (a) If an airport compatible land use zoning regulation conflicts with any other regulation applicable to the same area, the airport compatible land use zoning regulation controls.

(b) Subsection (a) applies to any conflict with respect to the use of land or any other matter.

(c) Subsection (a) applies to any regulation that conflicts with an airport compatible land use zoning regulation, whether the regulation was adopted by the political subdivision that adopted the airport compatible land use zoning regulation or by another political subdivision. (V.A.C.S. Art. 46e-4, Sec. (3).)

Sec. 241.903. ACQUISITION OF AIR RIGHTS OR OTHER PROPERTY. (a) A political subdivision may acquire from a person or other political subdivision an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use if:

(1) the acquisition is necessary to accomplish the purposes of this chapter;

(2) the property or nonconforming structure or use is located within the political subdivision, the political subdivision owns the airport, or the political subdivision is served by the airport; and

(3)(A) the political subdivision desires to remove, lower, or terminate the nonconforming structure or use;

(B) airport zoning regulations are not sufficient to provide necessary approach protection because of constitutional limitations; or

(C) the acquisition of a property right is more advisable than an airport zoning regulation in providing necessary approach protection.

(b) An acquisition under this section may be by purchase, grant, or condemnation in the manner provided by Subchapter B, Chapter 21, Property Code. (V.A.C.S. Art. 46e-13.)

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE SUBDIVISIONS IN AND OUTSIDE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

Sec. 242.001. REGULATION OF SUBDIVISIONS GENERALLY

Sec. 242.002. REGULATION OF SUBDIVISIONS IN COUNTIES WITH POPULATION OF MORE THAN 2.2 MILLION OR CONTIGUOUS COUNTIES

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE SUBDIVISIONS IN AND OUTSIDE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

Sec. 242.001. REGULATION OF SUBDIVISIONS GENERALLY. (a) This section applies only to a county operating under Sections 232.001-232.004.

(b) For an area in a municipality's extraterritorial jurisdiction, as determined under Chapter 42, a plat may not be filed with the county clerk without the approval of both the municipality and the county.

(c) In the extraterritorial jurisdiction of a municipality, the municipality may regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities, and the county may regulate subdivisions under Sections 232.001-232.004 and other statutes applicable to counties. If a municipal regulation conflicts with a county regulation, the more stringent provisions prevail.

(d) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes). (V.A.C.S. Art. 6626aa.)

Sec. 242.002. REGULATION OF SUBDIVISIONS IN COUNTIES WITH POPULATION OF MORE THAN 2.2 MILLION OR CONTIGUOUS COUNTIES. (a) This section applies only to a county operating under Section 232.005.

(b) For an area in a municipality’s extraterritorial jurisdiction, as determined under Chapter 42, a subdivision plat may not be filed with the county clerk without the approval of the municipality.

(c) In the extraterritorial jurisdiction of a municipality, the municipality has exclusive authority to regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities.

(d) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by The Interlocal Cooperation Act (Article 4413(32c), Vernon’s Texas Civil Statutes). (V.A.C.S. Art. 6626a.2.)

CHAPTER 243. MUNICIPAL AND COUNTY AUTHORITY TO REGULATE LOCATION OF SEXUALLY ORIENTED BUSINESS

Sec. 243.001. PURPOSE; EFFECT ON OTHER REGULATORY AUTHORITY

Sec. 243.002. DEFINITION

Sec. 243.003. AUTHORITY TO REGULATE LOCATION

Sec. 243.004. EXEMPT BUSINESS

Sec. 243.005. BUSINESS LICENSED UNDER ALCOHOLIC BEVERAGE CODE

Sec. 243.006. SCOPE OF REGULATION

Sec. 243.007. PERMITS

Sec. 243.008. ENFORCEMENT

Sec. 243.009. EFFECT ON OTHER LAWS

CHAPTER 243. MUNICIPAL AND COUNTY AUTHORITY TO REGULATE LOCATION OF SEXUALLY ORIENTED BUSINESS

Sec. 243.001. PURPOSE; EFFECT ON OTHER REGULATORY AUTHORITY. (a) The legislature finds that the unrestricted location of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity. The purpose of this chapter is to provide local governments a means of remedying this problem.

(b) This chapter does not enhance or diminish the authority of a local government to regulate sexually oriented businesses with regard to matters other than their location. (V.A.C.S. Art. 2372w, Sec. 1.)

Sec. 243.002. DEFINITION. In this chapter, “sexually oriented business” means a massage parlor, nude studio, modeling studio, love parlor, or other similar commercial enterprise the major business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer. (V.A.C.S. Art. 2372w, Sec. 3(a) (part).)

Sec. 243.003. AUTHORITY TO REGULATE LOCATION. (a) A municipality by ordinance or a county by order of the commissioners court may adopt regulations restricting the location of a sexually oriented business.

(b) An aspect of a sexually oriented business other than its location may not be regulated under this chapter.

(c) A regulation adopted by a municipality applies only inside the municipality’s corporate limits.

(d) A regulation adopted by a county applies only to the parts of the county outside the corporate limits of a municipality.

(e) In adopting a regulation, a municipality that has in effect a comprehensive zoning ordinance adopted under Chapter 211 must comply with all applicable procedural requirements of that chapter if the regulation is within the scope of that chapter. (V.A.C.S. Art. 2372w, Secs. 3(a), (b) (part), (c); 4(c).)

Sec. 243.004. EXEMPT BUSINESS. The following are exempt from regulation under this chapter:

- (1) a bookstore;
- (2) a movie theater;

(3) a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held; or

(4) a business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts. (V.A.C.S. Art. 2372w, Sec. 3(b) (part).)

Sec. 243.005. BUSINESS LICENSED UNDER ALCOHOLIC BEVERAGE CODE. (a) A business is not exempt from regulation under this chapter because it holds a license or permit under the Alcoholic Beverage Code authorizing the sale or service of alcoholic beverages.

(b) A regulation adopted under this chapter may not discriminate against a business on the basis of whether the business holds a license or permit under the Alcoholic Beverage Code.

(c) This chapter does not affect the existing preemption by the state of the regulation of alcoholic beverages and the alcoholic beverage industry as provided by Section 1.06, Alcoholic Beverage Code. (V.A.C.S. Art. 2372w, Sec. 3(a-1).)

Sec. 243.006. SCOPE OF REGULATION. (a) The location of sexually oriented businesses may be:

- (1) restricted to particular areas; or

(2) prohibited within a certain distance of a school, regular place of religious worship, residential neighborhood, or other specified land use the governing body of the municipality or county finds to be inconsistent with the operation of a sexually oriented business.

(b) A municipality or county may restrict the density of sexually oriented businesses. (V.A.C.S. Art. 2372w, Sec. 4(a).)

Sec. 243.007. PERMITS. A municipality or county may require that a permit be obtained for the operation of a sexually oriented business. A fee may be charged for the permit but the fee may not exceed the actual cost of processing the permit application. (V.A.C.S. Art. 2372w, Sec. 4(b).)

Sec. 243.008. ENFORCEMENT. (a) A municipality or county may sue in the district court for an injunction to prohibit the violation of a regulation adopted under this chapter.

(b) A person commits an offense if the person violates a city or county regulation adopted under this chapter. An offense under this subsection is a Class B misdemeanor. (V.A.C.S. Art. 2372w, Sec. 5.)

Sec. 243.009. EFFECT ON OTHER LAWS. This chapter does not legalize anything prohibited under the Penal Code or other state law. (V.A.C.S. Art. 2372w, Sec. 6.)

[Chapters 244–250 reserved for expansion]

TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY

SUBTITLE A. MUNICIPAL ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 251. MUNICIPAL RIGHT OF EMINENT DOMAIN

Sec. 251.001. RIGHT OF EMINENT DOMAIN

Sec. 251.002. PROCEDURE

TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY

SUBTITLE A. MUNICIPAL ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 251. MUNICIPAL RIGHT OF EMINENT DOMAIN

Sec. 251.001. RIGHT OF EMINENT DOMAIN. (a) When the governing body of a municipality considers it necessary, the municipality may exercise the right of eminent domain for a public purpose to acquire public or private property, whether located inside or outside the municipality, for any of the following purposes:

- (1) the providing, enlarging, or improving of a city hall; police station; jail or other law enforcement detention facility; fire station; library; school or other educational

facility; academy; auditorium; hospital; sanatorium; market house; slaughterhouse; warehouse; elevator; railroad terminal; airport; ferry; ferry landing; pier; wharf; dock or other shipping facility; loading or unloading facility; alley, street, or other roadway; park, playground, or other recreational facility; square; water works system, including reservoirs, other water supply sources, watersheds, and water storage, drainage, treatment, distribution, transmission, and emptying facilities; sewage system including sewage collection, drainage, treatment, disposal, and emptying facilities; electric or gas power system; cemetery; and crematory;

- (2) the determining of riparian rights relative to the municipal water works;
- (3) the straightening or improving of the channel of any stream, branch, or drain;
- (4) the straightening, widening, or extending of any alley, street, or other roadway; and
- (5) for any other municipal purpose the governing body considers advisable.

(b) A municipality condemning land under this section may take a fee simple title to the property if the governing body expresses the intention to do so. (V.A.C.S. Art. 1109b (part); Art. 1175, Subdiv. 15.)

Sec. 251.002. PROCEDURE. An exercise of the power of eminent domain granted by this chapter is governed by Chapter 21 of the Property Code. (V.A.C.S. Art. 1109b (part).)

CHAPTER 252. PURCHASING AND CONTRACTING
AUTHORITY OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 252.001. DEFINITIONS
- Sec. 252.002. MUNICIPAL CHARTER CONTROLS IN CASE OF CONFLICT

[Sections 252.003–252.020 reserved for expansion]

SUBCHAPTER B. COMPETITIVE BIDDING OR COMPETITIVE
PROPOSALS REQUIRED

- Sec. 252.021. COMPETITIVE BIDDING AND COMPETITIVE PROPOSAL REQUIREMENTS
- Sec. 252.022. GENERAL EXEMPTIONS
- Sec. 252.023. EXEMPTIONS FROM NOTICE AND REFERENDUM PROVISIONS
- Sec. 252.024. SELECTION OF INSURANCE BROKER

[Sections 252.025–252.040 reserved for expansion]

SUBCHAPTER C. PROCEDURES

- Sec. 252.041. NOTICE REQUIREMENT
- Sec. 252.042. REQUESTS FOR PROPOSALS FOR HIGH TECHNOLOGY PROCUREMENTS
- Sec. 252.043. AWARD OF CONTRACT
- Sec. 252.044. CONTRACTOR'S BOND
- Sec. 252.045. REFERENDUM ON ISSUANCE OF TIME WARRANTS
- Sec. 252.046. CIRCUMSTANCES IN WHICH CURRENT FUNDS TO BE SET ASIDE
- Sec. 252.047. PAYMENT METHOD FOR CERTAIN CONTRACTS
- Sec. 252.048. CHANGE ORDERS
- Sec. 252.049. CONFIDENTIALITY OF INFORMATION IN BIDS OR PROPOSALS

[Sections 252.050–252.060 reserved for expansion]

SUBCHAPTER D. ENFORCEMENT

- Sec. 252.061. INJUNCTION
- Sec. 252.062. CRIMINAL PENALTY

CHAPTER 252. PURCHASING AND CONTRACTING
AUTHORITY OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 252.001. DEFINITIONS. In this chapter:

(1) "Bond funds" includes money in the treasury received from the sale of bonds and includes the proceeds of bonds that have been voted but have not been issued and delivered.

(2) "Current funds" includes money in the treasury, taxes in the process of being collected in the current tax year, and all other revenue that may be anticipated with reasonable certainty in the current tax year.

(3) "High technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications equipment and radio and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(4) "Time warrant" includes any warrant issued by a municipality that is not payable from current funds. (V.A.C.S. Art. 2368a, Sec. 1 (part).)

Sec. 252.002. MUNICIPAL CHARTER CONTROLS IN CASE OF CONFLICT. Any provision in the charter of a home-rule municipality that relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, or the manner of letting contracts and that is in conflict with this chapter controls over this chapter. (V.A.C.S. Art. 2368a, Sec. 2(e) (part).)

[Sections 252.003–252.020 reserved for expansion]

SUBCHAPTER B. COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED

Sec. 252.021. COMPETITIVE BIDDING AND COMPETITIVE PROPOSAL REQUIREMENTS. (a) Before a municipality with 50,000 or more inhabitants may enter into a contract that requires an expenditure of more than \$10,000 from one or more municipal funds, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding or competitive sealed proposals. The municipality may use the competitive sealed proposal procedure only for high technology procurements.

(b) Before a municipality with fewer than 50,000 inhabitants may enter into a contract that requires an expenditure of more than \$5,000, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding. (V.A.C.S. Art. 2368a, Secs. 2(a), (b) (part), (c) (part).)

Sec. 252.022. GENERAL EXEMPTIONS. (a) This chapter does not apply to an expenditure for:

(1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

(2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

(3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

(4) a procurement for personal or professional services;

(5) a procurement for work that is performed and paid for by the day as the work progresses;

(6) a purchase of land or a right-of-way;

(7) a procurement of items that are available from only one source, including:

(A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

- (B) films, manuscripts, or books;
- (C) electricity, gas, water, and other utility services;
- (D) captive replacement parts or components for equipment; and
- (E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials;
- (8) a purchase of rare books, papers, and other library materials for a public library;
- (9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements; and
- (10) a public improvement project, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters.

(b) This chapter does not apply to bonds or warrants issued under Title 118, Revised Statutes, relating to seawalls. (V.A.C.S. Art. 2368a, Secs. 1 (part), 6; Art. 2368a.4, Sec. 2.)

Sec. 252.023. EXEMPTIONS FROM NOTICE AND REFERENDUM PROVISIONS. The notice provisions prescribed by Section 252.041 and the referendum provisions prescribed by Section 252.045 do not apply to expenditures that are payable:

- (1) from current funds;
- (2) from bond funds; or
- (3) by time warrants unless the amount of the time warrants issued by the municipality for all purposes during the current calendar year exceeds:
 - (A) \$7,500 if the municipality's population is 5,000 or less;
 - (B) \$10,000 if the municipality's population is 5,001 to 24,999;
 - (C) \$25,000 if the municipality's population is 25,001 to 49,999; or
 - (D) \$100,000 if the municipality's population is more than 50,000. (V.A.C.S. Art. 2368a, Secs. 5 (part), 11a (part).)

Sec. 252.024. SELECTION OF INSURANCE BROKER. This chapter does not prevent a municipality from selecting a licensed insurance broker as the sole broker of record to obtain proposals and coverages for excess or surplus insurance that provides necessary coverage and adequate limits of coverage in structuring layered excess coverages in all areas of risk requiring special consideration, including public official liability, police professional liability, and airport liability. The broker may be retained only on a fee basis and may not receive any other remuneration from any other source. (V.A.C.S. Art. 2368a, Sec. 2(g).)

[Sections 252.025–252.040 reserved for expansion]

SUBCHAPTER C. PROCEDURES

Sec. 252.041. NOTICE REQUIREMENT. (a) If the competitive sealed bidding requirement applies to the contract, notice of the time and place at which the contract will be let must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. The date of the first publication must be before the 14th day before the date set to let the contract. If no newspaper is published in the municipality, the notice must be posted at the city hall for 14 days before the date set to let the contract.

(b) If the competitive sealed proposals requirement applies to the contract, notice of the request for proposals must be given in the same manner as that prescribed by Subsection (a) for the notice for competitive sealed bids.

(c) If the contract is for the purchase of machinery for the construction or maintenance of roads or streets, the notice for bids and the order for purchase must include a full specification of the machinery desired.

(d) If the governing body of the municipality intends to issue time warrants for the payment of any part of the contract, the notice must include a statement of:

- (1) the governing body's intention;
- (2) the maximum amount of the proposed time warrant indebtedness;
- (3) the rate of interest the time warrants will bear; and
- (4) the maximum maturity date of the time warrants. (V.A.C.S. Art. 2368a, Secs. 2(b) (part), (c) (part); 2b (part); 3.)

Sec. 252.042. **REQUESTS FOR PROPOSALS FOR HIGH TECHNOLOGY PROCUREMENTS.** (a) Requests for proposals made under Section 252.021(a) must solicit quotations and must specify the relative importance of price and other evaluation factors.

(b) Discussions in accordance with the terms of a request for proposals and with regulations adopted by the governing body of the municipality may be conducted with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain the best final offers, revisions may be permitted after submissions and before the award of the contract. (V.A.C.S. Art. 2368a, Sec. 2(c) (part).)

Sec. 252.043. **AWARD OF CONTRACT.** (a) If the competitive sealed bidding requirement applies to the contract, the contract must be awarded to the lowest responsible bidder. The governing body may reject any and all bids.

(b) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals. (V.A.C.S. Art. 2368a, Secs. 2(b) (part), (c) (part).)

Sec. 252.044. **CONTRACTOR'S BOND.** (a) If the contract is for the construction of public works, the bidder to whom the contract is awarded must execute a good and sufficient bond. The bond must be:

- (1) in the full amount of the contract price;
- (2) conditioned that the contractor will faithfully perform the contract; and
- (3) executed, in accordance with Article 5160, Revised Statutes, by a surety company authorized to do business in the state.

(b) If the contract requires an expenditure of less than \$100,000, the bond is not required if the contract provides that payment is not due to the contractor until the work is completed and is accepted by the municipality.

(c) The governing body of a home-rule municipality by ordinance may adopt the provisions of this section and Article 5160, Revised Statutes, relating to contractors' surety bonds, regardless of a conflicting provision in the municipality's charter. (V.A.C.S. Art. 2368a, Secs. 2(b) (part), (e) (part).)

Sec. 252.045. **REFERENDUM ON ISSUANCE OF TIME WARRANTS.** (a) If, by the time set for letting a contract under this chapter, a written petition with the required signatures is filed with the municipal secretary or clerk requesting the governing body of the municipality to order a referendum on the question of whether time warrants should be issued for an expenditure under the contract, the governing body may not authorize the expenditure or finally award the contract unless the question is approved by a majority of the votes received in the referendum. The petition must be signed by at least 10 percent of the qualified voters of the municipality whose names appear as property taxpayers on the municipality's most recently approved tax rolls.

(b) If a petition is not filed, the governing body may finally award the contract and issue the time warrants. In the absence of a petition, the governing body may, at its discretion, order the referendum.

(c) The provisions of Chapters 1 and 2, Title 22, Revised Statutes, relating to elections for the issuance of municipal bonds and to the issuance, approval, registration, and sale of bonds govern the referendum and the time warrants to the extent those provisions are consistent with this chapter and Chapter 163, General Laws, Acts of the 42nd Legislature,

Regular Session, 1931 (Article 2368a, Vernon's Texas Civil Statutes). However, the time warrants mature and are payable as provided by Article 2368a for funding bonds.

(d) This section does not supersede any additional rights provided by the charter of a special-law municipality and relating to a referendum. (V.A.C.S. Art. 2368a, Secs. 4, 10 (part).)

Sec. 252.046. CIRCUMSTANCES IN WHICH CURRENT FUNDS TO BE SET ASIDE. If an expenditure under the contract is payable by warrants on current funds, the governing body of the municipality by order shall set aside an amount of current funds that will discharge the principal and interest of the warrants. Those funds may not be used for any other purpose, and the warrants must be discharged from those funds and may not be refunded. (V.A.C.S. Art. 2368a, Sec. 11a (part).)

Sec. 252.047. PAYMENT METHOD FOR CERTAIN CONTRACTS. If the contract is for the construction of public works or for the purchase of materials, equipment, and supplies, the municipality may let the contract on a lump-sum basis or unit price basis as the governing body of the municipality determines. If the contract is let on a unit price basis, the information furnished to bidders must specify the approximate quantity needed, based on the best available information, but payment to the contractor must be based on the actual quantity constructed or supplied. (V.A.C.S. Art. 2368a, Sec. 2a (part).)

Sec. 252.048. CHANGE ORDERS. (a) If changes in plans or specifications are necessary after the performance of the contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the governing body of the municipality may approve change orders making the changes.

(b) The total contract price may not be increased because of the changes unless additional money for increased costs is appropriated for that purpose from available funds or is provided for by the authorization of the issuance of time warrants.

(c) If a change order involves a decrease or an increase of \$15,000 or less, the governing body may grant general authority to an administrative official of the municipality to approve the change orders.

(d) The original contract price may not be increased under this section by more than 25 percent. The original contract price may not be decreased under this section by more than 25 percent without the consent of the contractor. (V.A.C.S. Art. 2368a, Sec. 2a (part).)

Sec. 252.049. CONFIDENTIALITY OF INFORMATION IN BIDS OR PROPOSALS. (a) Trade secrets and confidential information in competitive sealed bids are not open for public inspection.

(b) If provided in a request for proposals, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection. (V.A.C.S. Art. 2368a, Secs. 2(b) (part), (c) (part).)

[Sections 252.050–252.060 reserved for expansion]

SUBCHAPTER D. ENFORCEMENT

Sec. 252.061. INJUNCTION. If the contract is made without compliance with this chapter, it is void and the performance of the contract, including the payment of any money under the contract, may be enjoined by any property tax paying resident of the municipality. (V.A.C.S. Art. 2368a, Sec. 2(f).)

Sec. 252.062. CRIMINAL PENALTY. (a) A municipal officer or employee commits an offense if the officer or employee knowingly or intentionally makes or authorizes a purchase in order to avoid compliance with the competitive bidding requirements of this chapter.

(b) An offense under this section is a Class C misdemeanor. (V.A.C.S. Art. 2368a, Sec. 2(h).)

CHAPTER 253. SALE OR LEASE OF PROPERTY BY MUNICIPALITIES

- Sec. 253.001. SALE OF PARK LAND, MUNICIPAL BUILDING SITE, OR ABANDONED ROADWAY
- Sec. 253.002. TRANSACTIONS CONCERNING AN ISLAND, FLAT, OR SUBMERGED LAND
- Sec. 253.003. PURCHASE AND SALE OF FEDERAL PROPERTY
- Sec. 253.004. GRANT OR LEASE OF PROPERTY FOR JUVENILE BOARD
- Sec. 253.005. LEASE OF OIL, GAS, OR MINERAL LAND
- Sec. 253.006. LEASE OF MUNICIPAL HOSPITAL OR SWIMMING POOL

CHAPTER 253. SALE OR LEASE OF PROPERTY BY MUNICIPALITIES

Sec. 253.001. SALE OF PARK LAND, MUNICIPAL BUILDING SITE, OR ABANDONED ROADWAY. (a) Except as provided by Subsection (b), the governing body of a municipality may sell and convey land or an interest in land that the municipality owns, holds, or claims as a public square, park, or site for the city hall or other municipal building or that is an abandoned part of a street or alley. A sale under this section may include the improvements on the property.

(b) Land owned, held, or claimed as a public square or park may not be sold unless the issue of the sale is submitted to the qualified voters of the municipality at an election and is approved by a majority of the votes received at the election.

(c) To effect the sale, the governing body shall adopt an ordinance directing the municipality's mayor or city manager to execute the conveyance.

(d) The proceeds of the sale may be used only to acquire and improve property for the purposes for which the sold property was used. Failure to so use the proceeds, however, does not impair the title to the sold property acquired by a purchaser for a valuable consideration. (V.A.C.S. Arts. 1017, 1019, 1020.)

Sec. 253.002. TRANSACTIONS CONCERNING AN ISLAND, FLAT, OR SUBMERGED LAND. (a) A municipality may sell, convey, lease, or provide an option to all or a part of an island, flat, or submerged land the municipality owns and may make development plans and contracts for these purposes, at the times and on the terms that the governing body determines are proper and in the public interest, if the state or the Republic of Texas relinquished its interest in the land to the municipality before April 23, 1953.

(b) For a home-rule municipality the charter of which authorizes a referendum on such a transaction, the governing body may make the transaction without advertising or receiving bids, but the transaction may not take effect unless either it has been approved at a referendum ordered for that purpose or the period for the submission of a petition for a referendum on the transaction has expired.

(c) This section does not grant or convey to a municipality title to oil, gas, or other minerals.

(d) This section prevails over any conflicting charter provision of a home-rule municipality. (V.A.C.S. Art. 969a-1, Secs. 1, 2 (part), 3.)

Sec. 253.003. PURCHASE AND SALE OF FEDERAL PROPERTY. (a) The governing body of a municipality with fewer than 10,000 inhabitants may purchase for municipal purposes any real property, including improvements on the property, that the federal government offers for sale to the municipality.

(b) If the purpose for which property purchased under this section ceases to exist or if the property is no longer needed for the purpose, the governing body may sell and convey the property for the highest obtainable price. (V.A.C.S. Art. 969d, Secs. 1, 3.)

Sec. 253.004. GRANT OR LEASE OF PROPERTY FOR JUVENILE BOARD. A home-rule municipality by grant or lease may donate to the county in which the municipality is located any unimproved land for use by a juvenile board of the county. (V.A.C.S. Art. 1182d-1, Sec. 2.)

Sec. 253.005. LEASE OF OIL, GAS, OR MINERAL LAND. (a) Except as provided by Subsection (b), a municipality may lease oil, gas, or mineral land that it owns, in the manner and on the terms that the governing body of the municipality determines, for the benefit of the municipality. A lease under this section is not a sale under the law governing the sale of municipal land.

(b) A municipality may not lease under this section a street, alley, or public square in the municipality.

(c) A well may not be drilled in the thickly settled part of the municipality or within 200 feet of a private residence. (V.A.C.S. Art. 1267, Secs. 1, 2 (part).)

Sec. 253.006. LEASE OF MUNICIPAL HOSPITAL OR SWIMMING POOL. (a) The governing body of a municipality with a population of 65,000 or less may lease all or part of a hospital owned by the municipality, to be operated by the lessee as a public hospital.

(b) The governing body of any municipality may lease a swimming pool owned by the municipality, to be operated by the lessee as a public swimming pool.

(c) A lease under this section must:

- (1) be authorized by ordinance or resolution adopted by the governing body;
- (2) be executed on behalf of the municipality by the mayor and the municipal secretary or clerk;
- (3) be impressed with the municipal seal; and
- (4) cover a period of not more than 50 years.

(d) A lease under this section is subject to the terms agreed to by the governing body and the lessee. (V.A.C.S. Arts. 1015i, 1268b.)

[Chapters 254–260 reserved for expansion]

SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 261. COUNTY RIGHT OF EMINENT DOMAIN

- Sec. 261.001. RIGHT OF EMINENT DOMAIN**
- Sec. 261.002. PROCEDURE**
- Sec. 261.003. APPEAL**

SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 261. COUNTY RIGHT OF EMINENT DOMAIN

Sec. 261.001. RIGHT OF EMINENT DOMAIN. (a) A county may exercise the right of eminent domain to condemn and acquire land, an easement in land, or a right-of-way if the acquisition is necessary for the construction of a jail, courthouse, hospital, or library, or for another public purpose authorized by law.

(b) The right of eminent domain conferred by this section extends to public or private land, but not to land used for cemetery purposes. (V.A.C.S. Art. 3264a (part).)

Sec. 261.002. PROCEDURE. The condemnation proceedings must be instituted in the name of the county and under the direction of the commissioners court. (V.A.C.S. Art. 3264a (part).)

Sec. 261.003. APPEAL. (a) An appeal from a finding and assessment of damages made as prescribed by Chapter 21, Property Code, does not suspend work by the county that relates to the land the county seeks to acquire.

(b) A county is not required to give a bond in an appealed case. (V.A.C.S. Art. 3264a (part).)

CHAPTER 262. PURCHASING AND CONTRACTING AUTHORITY OF COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 262.001. APPOINTMENT OF AGENT TO MAKE CONTRACTS
- Sec. 262.002. AUTHORITY TO PURCHASE ROAD EQUIPMENT AND TIRES THROUGH STATE PURCHASING AND GENERAL SERVICES COMMISSION
- Sec. 262.003. SMALL, SOLE-SOURCE PURCHASE EXEMPT FROM COMPETITIVE BIDDING
- Sec. 262.004. CONTRACT AND OTHER INSTRUMENTS VEST RIGHTS IN COUNTY; SUIT ON CONTRACT OR OTHER INSTRUMENT

[Sections 262.005–262.010 reserved for expansion]

SUBCHAPTER B. PURCHASING AGENTS

- Sec. 262.011. PURCHASING AGENTS IN COUNTIES WITH POPULATION OF 74,000 OR MORE
- Sec. 262.012. COUNTY AUDITORS AS PURCHASING AGENTS IN CERTAIN COUNTIES

[Sections 262.013–262.020 reserved for expansion]

SUBCHAPTER C. COMPETITIVE BIDDING IN GENERAL

- Sec. 262.021. SHORT TITLE
- Sec. 262.022. DEFINITIONS
- Sec. 262.023. COMPETITIVE BIDDING AND COMPETITIVE PROPOSAL REQUIREMENTS
- Sec. 262.024. EXEMPTIONS
- Sec. 262.025. COMPETITIVE BIDDING NOTICE
- Sec. 262.026. OPENING OF BIDS
- Sec. 262.027. AWARDED OF CONTRACT
- Sec. 262.028. LUMP-SUM OR UNIT PRICE METHOD
- Sec. 262.029. TIME WARRANT ELECTION
- Sec. 262.030. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR INSURANCE OR HIGH TECHNOLOGY ITEMS
- Sec. 262.031. CHANGES IN PLANS AND SPECIFICATIONS
- Sec. 262.032. BID OR PERFORMANCE BOND; PAYMENT UNDER CONTRACT
- Sec. 262.033. INJUNCTION
- Sec. 262.034. CRIMINAL PENALTY; REMOVAL FROM OFFICE

CHAPTER 262. PURCHASING AND CONTRACTING AUTHORITY OF COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 262.001. APPOINTMENT OF AGENT TO MAKE CONTRACTS. (a) The commissioners court of a county may appoint an agent to make a contract on behalf of the county for:

- (1) erecting or repairing a county building;
- (2) supervising the erecting or repairing of a county building; or
- (3) any other purpose authorized by law.

(b) A contract or other act of an agent appointed under this section that is properly executed on behalf of the county and is within the agent's authority binds the county to the contract for all purposes. (V.A.C.S. Art. 1580.)

Sec. 262.002. AUTHORITY TO PURCHASE ROAD EQUIPMENT AND TIRES THROUGH STATE PURCHASING AND GENERAL SERVICES COMMISSION. (a) The commissioners court of a county may purchase through the State Purchasing and General Services Commission road machinery and equipment, tires, and tubes to be used by the county.

(b) The commission must purchase an item under this section on competitive bids and in accordance with any rules of the commission.

(c) A purchase under this section must be made on the requisition of the commissioners court. When the court sends the requisition to the commission, the court must include with the requisition a general description of the item desired and a certification of the funds available to pay for the item.

(d) The commission may adopt rules to carry out the purpose of this section. (V.A.C. S. Art. 2351d, Secs. 1, 2.)

Sec. 262.003. SMALL, SOLE-SOURCE PURCHASE EXEMPT FROM COMPETITIVE BIDDING. (a) Any law that requires a county to follow a competitive bidding procedure in making a purchase requiring the expenditure of \$5,000 or less does not apply to the purchase of an item available for purchase from only one supplier.

(b) If a county makes a purchase covered by Subsection (a), the county auditor or other appropriate county officer or employee may not refuse payment for the purchase because a competitive bidding procedure was not followed. (V.A.C.S. Art. 2368a.4, Sec. 1.)

Sec. 262.004. CONTRACT AND OTHER INSTRUMENTS VEST RIGHTS IN COUNTY; SUIT ON CONTRACT OR OTHER INSTRUMENT. (a) A note, bond, bill, contract, covenant, agreement, or writing in which a person is bound to a county, to the court or commissioners of a county, or to another person for the payment of a debt or for the performance of a duty or another action for the county vests in the county the same right, interest, or action that would vest in any other person if the contract had been made with that other person.

(b) A suit may be initiated and prosecuted on an instrument covered by Subsection (a) in the name of a county, or in the name of the person to whom the document was made for the use of the county, in the same manner that any other person may sue on a similar document made to that person. (V.A.C.S. Arts. 1578, 1579.)

[Sections 262.005–262.010 reserved for expansion]

SUBCHAPTER B. PURCHASING AGENTS

Sec. 262.011. PURCHASING AGENTS IN COUNTIES WITH POPULATION OF 74,000 OR MORE. (a) In a county with a population of 74,000 or more, a board composed of the judges of the district courts in the county and the county judge, by majority vote, may appoint a suitable person to act as the county purchasing agent. The term of office of the county purchasing agent is two years.

(b) The judges may remove the county purchasing agent from office.

(c) A person appointed under this section must execute a bond in the amount of \$5,000, payable to the county, conditioned that the individual will faithfully perform the duties of county purchasing agent.

(d) The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee of the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repairs.

(e) The county purchasing agent shall supervise all purchases made on competitive bid and shall see that all purchased supplies, materials, and equipment are delivered to the proper county officer or department in accordance with the purchase contract.

(f) A purchase made by the county purchasing agent shall be paid for by a warrant drawn by the county auditor on funds in the county treasury in the manner provided by law. The county auditor may not draw and the county treasurer may not honor a warrant for a purchase unless the purchase is made by the county purchasing agent or on competitive bid as provided by law.

(g) The county purchasing agent may cooperate with the purchasing agent of a municipality in the county to purchase any item in volume as may be necessary. The county treasurer shall honor a warrant drawn by the county auditor to reimburse the municipality's purchasing agent making the purchase for the county.

(h) The county purchasing agent is not required to make purchases for a city-county hospital or other joint undertaking of the city and county.

(i) On July 1 of each year, the county purchasing agent shall file with the county auditor and each of the judges an inventory of all the property on hand and belonging to the county and each subdivision, officer, and employee of the county. The county auditor shall carefully examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory.

(j) To prevent unnecessary purchases, the county purchasing agent shall transfer county supplies, materials, and equipment from a subdivision, department, officer, or employee of the county that are not needed or used to another subdivision, department, officer, or employee requiring the supplies or materials or the use of the equipment. The county purchasing agent shall furnish to the county auditor a list of transferred supplies, materials, and equipment.

(k) The board that appoints the county purchasing agent shall set the salary of the agent in an amount not less than \$5,000 a year, payable in equal monthly installments. The salary shall be paid by warrants drawn on funds in the county treasury.

(l) The county purchasing agent may have assistants to aid in the performance of the agent's duties. The county purchasing agent and assistants may have any help, equipment, supplies, and traveling expenses that are approved and considered advisable by the board that appointed the agent.

(m) A person, including an officer, agent, or employee of a county or of a subdivision or department of a county, commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$10 or more than \$100, by confinement in the county jail for not less than 30 days or more than one year, or by both the fine and confinement. Each act in violation of this section is a separate offense.

(n) This section applies to all purchases of supplies, materials, and equipment for the use of the county and its officers, including purchases made by officers paid out of fees of office or otherwise, regardless of whether the purchase contract is made by the commissioners court or any other officer authorized to bind the county by contract. An officer making a purchase out of fees of office in violation of this section may not deduct the amount of the purchase from the amount of any fees of office due the county. (Secs. 1, 2, 4 (part), 5, Ch. 9, p. 602, S.L., Acts 46th Leg., R. S., 1939.)

Sec. 262.012. COUNTY AUDITORS AS PURCHASING AGENTS IN CERTAIN COUNTIES. (a) A county auditor employed jointly by two or more counties under Section 84.008 shall act as the purchasing agent for each county, in addition to performing the regular duties of the auditor as required by law.

(b) In a county with a population of 41,680 to 42,100, the county auditor shall act as the purchasing agent for the county in addition to performing the regular duties of the auditor as required by law. (V.A.C.S. Arts. 1645h (part), 1646b, Sec. 1 (part).)

[Sections 262.013–262.020 reserved for expansion]

SUBCHAPTER C. COMPETITIVE BIDDING IN GENERAL

Sec. 262.021. SHORT TITLE. This subchapter may be cited as the County Purchasing Act. (V.A.C.S. Art. 2368a.5, Sec. 1.)

Sec. 262.022. DEFINITIONS. In this subchapter:

(1) "Bond funds" means money in the county treasury received from the sale of bonds, and proceeds of bonds that have been voted but that have not been issued and delivered.

(2) "Current funds" means funds in the county treasury that are available in the current tax year, revenue that may be anticipated with reasonable certainty to come into the county treasury during the current tax year, and emergency funds.

(3) "High technology item" means a service, equipment, or good of a highly technical nature, including:

- (A) data processing equipment and software and firmware used in conjunction with data processing equipment;
- (B) telecommunications, radio, and microwave systems;
- (C) electronic distributed control systems, including building energy management systems; and
- (D) technical services related to those items.

(4) "Item" means any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items.

(5) "Time warrant" means any warrant issued by a county that is not payable out of current funds. (V.A.C.S. Art. 2368a.5, Sec. 2.)

Sec. 262.023. **COMPETITIVE BIDDING AND COMPETITIVE PROPOSAL REQUIREMENTS.** (a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$5,000, the commissioners court of the county must comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter. All bids or proposals must be sealed.

(b) The competitive bidding and competitive proposal requirements established by Subsection (a) apply only to contracts for which payment will be made from current funds or bond funds or through time warrants. However, contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).

(c) In applying the competitive bidding and competitive proposal requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the competitive bidding and competitive proposal requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract. (V.A.C.S. Art. 2368a.5, Sec. 3.)

Sec. 262.024. **EXEMPTIONS.** (a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

- (1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;
- (2) an item necessary to preserve or protect the public health or safety of the residents of the county;
- (3) an item necessary because of unforeseen damage to public property;
- (4) a personal or professional service;
- (5) any work performed and paid for by the day, as the work progresses;
- (6) any land or right-of-way; or
- (7) an item that can be obtained from only one source, including:
 - (A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies;
 - (B) films, manuscripts, or books;
 - (C) electric power, gas, water, and other utility services; and
 - (D) captive replacement parts or components for equipment.

(b) If an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the

county as to the existence of only one source, must enter in its minutes a statement to that effect. (V.A.C.S. Art. 2368a.5, Sec. 4.)

Sec. 262.025. **COMPETITIVE BIDDING NOTICE.** (a) A notice of a proposed purchase must be published at least once a week in a newspaper of general circulation in the county, with the first day of publication occurring before the 14th day before the date of the bid opening. If there is no newspaper of general circulation in the county, the notice must be posted in a prominent place in the courthouse for 14 days before the date of the bid opening.

(b) The notice must include:

- (1) the specifications describing the item to be purchased or a statement of where the specifications may be obtained;
- (2) the time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent;
- (3) whether the bidder should use lump-sum or unit pricing;
- (4) the method of payment by the county; and
- (5) the type of bond required by the bidder.

(c) If any part of the payment for a proposed purchase will be made through time warrants, the notice also must include a statement of the maximum amount of time warrant indebtedness, the rate of interest on the time warrants, and the maximum maturity date of the time warrants. (V.A.C.S. Art. 2368a.5, Sec. 5.)

Sec. 262.026. **OPENING OF BIDS.** (a) The county official who makes purchases for the county shall open the bids on the date specified in the notice. The date specified in the notice may be extended by the commissioners court if an error is discovered in the original specifications or the nature of the item to be purchased requires an extension for the county to best use the provisions of Section 262.030.

(b) Opened bids shall be kept on file and available for inspection by anyone desiring to see them. (V.A.C.S. Art. 2368a.5, Sec. 6.)

Sec. 262.027. **AWARDING OF CONTRACT.** (a) The officer in charge of opening the bids shall present them to the commissioners court in session. The court shall:

- (1) award the contract to the responsible bidder who submits the lowest and best bid; or
- (2) reject all bids and publish a new notice.

(b) If two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots in a manner prescribed by the county judge.

(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the commissioners court and present evidence concerning the lower bidder's responsibility. (V.A.C.S. Art. 2368a.5, Sec. 7.)

Sec. 262.028. **LUMP-SUM OR UNIT PRICE METHOD.** A purchase may be proposed on a lump-sum or unit price basis. If the county chooses to use unit pricing in its notice, the information furnished bidders must specify the approximate quantities estimated on the best available information, but the compensation paid the bidder must be based on the actual quantities purchased. (V.A.C.S. Art. 2368a.5, Sec. 8.)

Sec. 262.029. **TIME WARRANT ELECTION.** If before the date tentatively set for the authorization of the issuance of time warrants applying to a contract covered by this subchapter or if before that authorization a petition signed by at least five percent of the registered voters of the county is filed with the county clerk protesting the issuance of the time warrants, the county may not issue the time warrants unless the issuance is approved at an election ordered and conducted in the manner provided for county bond elections under Chapter 1, Title 22, Revised Statutes. (V.A.C.S. Art. 2368a.5, Sec. 9.)

Sec. 262.030. **ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR INSURANCE OR HIGH TECHNOLOGY ITEMS.** (a) The competitive proposal procedure provided by this section may be used for the purchase of insurance or high technology

items. Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall be made to the responsible offeror whose proposal is determined to be the lowest evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

(b) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. All proposals that have been submitted shall be open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

(c) As provided in the request for proposals and under rules adopted by the commissioners court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. (V.A.C.S. Art. 2368a.5, Sec. 10.)

Sec. 262.031. CHANGES IN PLANS AND SPECIFICATIONS. (a) If it becomes necessary to make changes in plans, specifications, or proposals after a contract is made or if it becomes necessary to increase or decrease the quantity of items purchased, the commissioners court may make the changes. However, the total contract price may not be increased unless the cost of the change can be paid from available funds.

(b) If a change order involves an increase or decrease in cost of \$15,000 or less, the commissioners court may grant general authority to an employee to approve the change orders. However, the original contract price may not be increased by more than 25 percent. The original contract price may not be decreased by 18 percent or more without the consent of the contractor. (V.A.C.S. Art. 2368a.5, Sec. 11.)

Sec. 262.032. BID OR PERFORMANCE BOND; PAYMENT UNDER CONTRACT. (a) If the contract is for the construction of public works or is under a contract exceeding \$50,000, the bid specifications or request for proposals may require the bidder to furnish a good and sufficient bid bond in the amount of five percent of the total contract price and executed with a surety company authorized to do business in this state.

(b) Within 10 days after the date of the signing of a contract or issuance of a purchase order following the acceptance of a bid or proposal, the bidder or proposal offeror shall furnish a performance bond to the county, if required by the county, for the full amount of the contract if that contract exceeds \$50,000.

(c) If the contract is for \$50,000 or less, the county may provide in the bid notice or request for proposals that no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the county.

(d) A bidder or proposal offeror whose rates are subject to regulation by a state agency may not be required to furnish a performance bond or a bid bond under this section. (V.A.C.S. Art. 2368a.5, Sec. 12.)

Sec. 262.033. INJUNCTION. Any property tax paying citizen of the county may enjoin performance under a contract made by a county in violation of this subchapter. (V.A.C.S. Art. 2368a.5, Sec. 13.)

Sec. 262.034. CRIMINAL PENALTY; REMOVAL FROM OFFICE. (a) A county officer or employee commits an offense if the officer or employee knowingly or intentionally makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023. An offense under this subsection is a Class B misdemeanor. A final conviction under this subsection results in the immediate removal of the county officer or employee from the office or position.

(b) A county officer or employee commits an offense if the officer or employee knowingly or intentionally violates this subchapter. An offense under this subsection is a Class C misdemeanor. (V.A.C.S. Art. 2368a.5, Sec. 14.)

CHAPTER 263. SALE OR LEASE OF PROPERTY BY COUNTIES

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CHAPTER 263. SALE OR LEASE OF PROPERTY BY COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS FOR REAL PROPERTY

- Sec. 263.001. SALE OR LEASE OF REAL PROPERTY. (a) The commissioners court of a county, by an order entered in its minutes, may appoint a commissioner to sell or

lease real property owned by the county. The sale or lease must be made at a public auction held in accordance with this section unless this chapter provides otherwise.

(b) The appointed commissioner must publish notice of the auction before the 20th day before the date the auction is held. The notice must be published in English in a newspaper in the county in which the real property is located and in the county that owns the real property if not the same county. The notice must be published once a week for three consecutive weeks before the date the auction is held.

(c) If the real property is sold, a deed that is made on behalf of the county by the appointed commissioner in conformance with the order entered under Subsection (a) and that is properly acknowledged, proved, and recorded is sufficient to convey the county's interest in the property. (V.A.C.S. Art. 1577, Secs. 1(a), (b).)

Sec. 263.002. ABANDONED SEAWALL OR HIGHWAY PROPERTY. (a) If abandoned seawall or highway right-of-way property is no longer needed for such a purpose, the county may sell or lease the property only according to the following priorities:

- (1) to an abutting or adjoining landowner;
- (2) to the person who originally granted the right-of-way to the county or the grantor's heirs or assigns;
- (3) exclusively for public use to the United States, this state, or a municipality within the municipal boundaries of which the property is located; or
- (4) at public auction in accordance with Section 263.001.

(b) A sale or lease to the public under this section is subject to any restrictions and prohibitions contained in the deed of conveyance under which the county originally acquired title to the property.

(c) Before the commissioners court of the county sells or leases the property to an abutting or adjoining landowner or to the original grantor or the grantor's heirs or assigns, the commissioners court, in addition to notice published in accordance with Section 263.001, shall appoint an appraiser to determine the fair market value and fair lease value of the property to be sold or leased. The appraiser shall report those values to the commissioner appointed to sell or lease the property under Section 263.001. The appointed commissioner may not sell or lease the property for an amount that is less than the reported fair market value or fair lease value, as the case may be.

(d) Before the commissioner sells or leases the property, the commissioner shall report to the commissioners court the amount of the proposed purchase or lease price. The commissioners court shall determine whether an offer of sale, purchase, or lease is reasonable and shall accept or reject the offer. The commissioners court may reject any offer it determines to be unreasonable.

(e) In addition to the sale price, a purchaser of abandoned seawall or highway right-of-way property must pay all costs of conducting the sale, including the appraisal fee. (V.A.C.S. Art. 1577, Sec. 1(c).)

Sec. 263.003. SCHOOL LANDS. (a) The commissioners court of a county shall provide for the protection, preservation, and disposition of lands granted to the county for educational purposes.

(b) The commissioners court may dispose of land granted to the county for educational purposes only as provided by law. (V.A.C.S. Art. 1577, Sec. 1(f); Art. 2351, Subdiv. 8, as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 263.004. RESTRICTIONS, CONDITIONS, AND LIMITATIONS. (a) In a conveyance of real property, the commissioners court of a county may provide for restrictions, conditions, and limitations that it determines are necessary or proper.

(b) Each conveyance of abandoned seawall right-of-way property under Section 263.002 must contain a restriction that a structure may not be placed within 50 feet, or a greater distance determined by the commissioners court, of the landward boundary of the seawall right-of-way retained by the county.

(c) In the order and notice required by Section 263.001, the commissioners court shall give a substantial statement of any restriction, condition, or limitation to which a conveyance is subject. (V.A.C.S. Art. 1577, Sec. 1(e).)

Sec. 263.005. **USE BY PUBLIC UTILITY OR COMMON CARRIER.** If, at the time real property, or an interest in real property, is sold, leased, or exchanged under this subchapter, a public utility or common carrier that has the right of eminent domain is using the property for right-of-way and easement purposes, the sale, lease, exchange, conveyance, and surrender of possession of the property or interest are subject to the right of and continued use by the public utility or common carrier. (V.A.C.S. Art. 1577, Sec. 1(d).)

Sec. 263.006. **EXCHANGE OF REAL PROPERTY.** (a) The commissioners court of a county, by an order entered in its minutes, may authorize the exchange of an interest in real property owned by the county for an interest in real property owned by an individual, private partnership or corporation, or other private entity, to be used for one or more public purposes for which a county otherwise may acquire land. The exchange transaction may include a partial cash payment.

(b) Except as provided by Subsection (d), before the commissioners court exchanges an interest in real property under this section, notice that the county will consider offers for an exchange of the interest in real property must be published in English in a newspaper of general circulation in the county in which the real property is located and in the county that owns the interest if not the same county. The notice must be published once a week for three consecutive weeks before the date of the exchange, with the date of the first publication being before the 20th day before the date of the exchange.

(c) The county shall obtain an appraisal of the fair market value of the interest in real property owned and being exchanged by the county, and the appraisal is conclusive for purposes of this section of the value so determined. An exchange may not be made under this section for a total consideration, including cash and interest in real property, that is less than the fair market value of the interest in real property being exchanged by the county. The commissioners court may reject any and all offers made under this section.

(d) An exchange of an interest in real property originally acquired by the county for street, right-of-way, or easement purposes as consideration for the acquisition of another interest in real property for street, right-of-way, or easement purposes is not subject to the notice requirements of Subsection (b) but is subject to the appraisal required by Subsection (c), whether or not the exchange transaction includes a partial cash payment.

(e) This section does not apply to the exchange of an interest in real property owned by a county for an interest in real property owned by the United States, this state, or a municipality or other political subdivision of this state. (V.A.C.S. Art. 1577, Sec. 2.)

[Sections 263.007–263.050 reserved for expansion]

SUBCHAPTER B. DISPOSITION OF CERTAIN REAL OR PERSONAL PROPERTY

Sec. 263.051. **AIRPORT LAND.** (a) The commissioners court of a county may lease to any person any land acquired, by a purchase or gift, by the county for an airport and may lease any facilities on that land, unless the lease is prohibited by the terms of the grant of the land to the county. The commissioners court shall determine the conditions of the lease.

(b) The commissioners court may make contracts relating to natural resources, including oil, gas, and other minerals, owned by the county by virtue of the ownership of airport land, including contracts for the exploration and development of those resources. The commissioners court may execute and deliver mineral deeds to or leases of all or part of the resources or rights to the resources. The commissioners court shall determine the terms of and consideration for the contract, which may include oil payments, gas payments, overriding royalties, and similar payments.

(c) For the maintenance, improvement, and operation of the airport and the facilities on the airport land, the commissioners court shall use:

(1) proceeds received from the lease of the surface of the airport land or the facilities on that land for airport purposes or purposes related to the operation of the airport; and

(2) proceeds received from charges for the use of the airport for airport purposes.

(d) If at the end of the fiscal year a part of the proceeds covered by Subsection (c) remains unspent, the commissioners court may spend that amount for any lawful purpose.

(e) The commissioners court, for any lawful purpose, may spend:

(1) proceeds from the sale of minerals or mineral rights under airport land and proceeds from the execution of mineral leases, including cash bonuses, delay rentals, and royalties; and

(2) proceeds from the lease of the surface of airport land or facilities on that land for purposes other than airport purposes or purposes other than those relating to the operation of an airport. (V.A.C.S. Art. 2351, Subdiv. 18, as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 263.052. CERTAIN LAND, HOUSING, OR FACILITIES ACQUIRED FROM UNITED STATES. (a) A county may:

(1) lease or rent any land, housing, or facility acquired under Section 270.004;

(2) establish and revise the amount charged for the lease or rental;

(3) arrange or contract for the furnishing of services or facilities for, or in connection with, that land, housing, or facility or the occupants of that land, housing, or facility;

(4) sell or exchange all or part of that land or housing; and

(5) execute oil, gas, or mineral leases for all or part of that land.

(b) The commissioners court of the county shall determine the terms of an oil, gas, or mineral lease executed under this section and the consideration for the lease, which may include oil or gas payments, overriding royalties, and similar payments.

(c) The commissioners court may execute conveyances of minerals or mineral rights and may contract for the exploration and development of minerals under all or part of the land. (V.A.C.S. Art. 2351, Subdivs. 19(d), (e), as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 263.053. SALE AND SUBSEQUENT LEASE OF PROPERTY IN COUNTIES WITH POPULATION OF MORE THAN 500,000. (a) This section applies only to counties with a population of more than 500,000.

(b) The commissioners court of the county may sell land, buildings, facilities, or equipment for the purpose of making contracts for the lease or rental of land, buildings, facilities, or equipment or for receiving services from others for county purposes. The commissioners court may pay regular monthly bills for utilities, such as electricity, gas, and water, for the property leased or rented or for the services received.

(c) If a majority of the commissioners court determines that the facilities and equipment are essential for the proper administration of county government, the commissioners court may pay for the facilities and equipment and for the regular monthly bills from the general fund of the county. The commissioners court must make the payment by warrant in the manner that payments for other obligations of the county are made.

(d) A construction project initiated for a purpose authorized by this section may be awarded only by a contract that provides for the payment of the prevailing wage for all mechanics, laborers, and others employed in the construction project. The commissioners court of Tarrant County shall set the prevailing wage, which must be the same prevailing wage set by the commissioners court of that county for all construction projects involving the expenditure of county funds.

(e) On or before the expiration of a contract made under this section, the facilities may be purchased by the county and paid for from its general fund if a majority of the commissioners court agrees that the purchase price is reasonable. (V.A.C.S. Art. 2370e, Secs. 1, 2, 4.)

Sec. 263.054. **RELINQUISHMENT OF ABANDONED LAND.** The commissioners court of a county by order may, as if there has been a failure of consideration, relinquish and convey land donated to the county for county purposes to the donor of the land or the donor's successor in title if:

- (1) on the date of the order, the land has been abandoned and not used by the county for the purpose of the donation for more than 40 years; and
- (2) it is shown that the donor of the land and the donor's successors in title have been in actual, continuous, open, peaceful, and adverse possession of the land for 40 years or more preceding the date of the order. (V.A.C.S. Art. 1581c, Secs. 1, 3.)

[Sections 263.055–263.100 reserved for expansion]

**SUBCHAPTER C. LEASE OR SALE OF REAL PROPERTY FOR
PRIVATELY OWNED HOTEL**

Sec. 263.101. **APPLICATION OF SUBCHAPTER TO COUNTIES WITH MORE THAN 700,000 POPULATION.** This subchapter applies only to a county with a population of more than 700,000. (V.A.C.S. Art. 2372d–6, Sec. 1 (part).)

Sec. 263.102. **LEASE.** (a) The commissioners court of the county may lease real property owned by the county and air rights above that property to an individual or a private corporation or association, and make agreements with an individual or a private corporation or association for the construction, ownership, maintenance, operation, or expansion of a privately owned hotel and related facilities that are operated in conjunction with an existing convention center owned by the county.

(b) The commissioners court may lease real property under this section regardless of the property's being encumbered by existing revenue bonds. In leasing the property, the commissioners court must comply with all applicable conditions of existing revenue bonds except those waived by the holders of the bonds. (V.A.C.S. Art. 2372d–6, Secs. 1 (part), 2, 3, 9.)

Sec. 263.103. **CREATION OF ENCUMBRANCE.** (a) A lease or other agreement executed under this subchapter may not subject the real property to a pledge or mortgage, other than existing revenue bonds, refunding bonds, or other indentures for the release of existing revenue bonds, or to an encumbrance that did not exist on the date the lease or agreement was executed.

(b) A lease under this subchapter must specifically provide that the real property subject to the lease is not encumbered or mortgaged by the lease or by any agreement executed in connection with the lease. (V.A.C.S. Art. 2372d–6, Secs. 4, 5 (part).)

Sec. 263.104. **LENDING CREDIT.** A county executing a lease under this subchapter may not in any way lend its credit to an individual or a private corporation or association in connection with the lease. (V.A.C.S. Art. 2372d–6, Sec. 5 (part).)

Sec. 263.105. **CONDITIONS OF LEASE.** (a) A lease under this subchapter may initially be effective for the term of a mortgage covering the construction of the hotel and related facilities. The lease may provide to the parties constructing, owning, or operating the hotel or related facilities an option to renew the lease.

(b) The lease must be made on a competitive bid. Consideration for the lease may not be less than the fair market lease value of the property and air rights being leased.

(c) The parties to the lease mutually shall determine the other conditions of the lease. (V.A.C.S. Art. 2372d–6, Secs. 6, 7.)

Sec. 263.106. **SALE.** (a) The commissioners court of a county may sell land owned by the county and the air rights above the land to an individual or a private corporation or association if:

- (1) all existing revenue bond obligations encumbering the land have been fully discharged as to bondholders;
- (2) a hotel has been built on the land in conjunction with an existing convention center and the hotel has been operated continuously for at least five years from its inception;
- (3) the parties to an existing lease of land mutually agree to the sale of the land and the air rights; and

(4) the county receives an amount for the land and air rights that is fair under the market conditions existing at the time of the sale.

(b) The commissioners court may impose deed restrictions or reverters to preserve the use of the land for a purpose consistent with the construction, expansion, ownership, and operation of a hotel and related facilities in conjunction with a convention center.

(c) A sale of land under this subchapter may include land appurtenant to the land on which the hotel or related facilities have been built. (V.A.C.S. Art. 2372d-6, Sec. 8.)

Sec. 263.107. EXPENDITURE OF TAX FUNDS. In an agreement authorized by this subchapter, the commissioners court of a county may spend tax funds consistent with state law but must limit each commitment or expenditure of tax funds associated with the agreement to an amount available from current revenues of the county. (V.A.C.S. Art. 2372d-6, Sec. 10.)

[Sections 263.108–263.150 reserved for expansion]

SUBCHAPTER D. DISPOSITION OF SALVAGE OR SURPLUS PROPERTY

Sec. 263.151. DEFINITIONS. In this subchapter:

(1) "Salvage property" means personal property, other than wastepaper, that because of use, time, or accident is so worn, damaged, or consumed that it has no value for the purpose for which it was originally intended.

(2) "Surplus property" means personal property that:

(A) is not currently needed by its owner;

(B) is not required for the owner's foreseeable needs; and

(C) possesses some usefulness for the purpose for which it was intended or for some other purpose. (V.A.C.S. Art. 2372z, Sec. 1.)

Sec. 263.152. DISPOSITION. The commissioners court of a county may:

(1) periodically sell the county's surplus or salvage property by competitive bid or auction;

(2) offer the property as a trade-in for new property of the same general type if the commissioners court considers that action to be in the best interests of the county; or

(3) order the property to be destroyed as worthless if it cannot sell the property. (V.A.C.S. Art. 2372z, Secs. 2(a), 3(a), 6.)

Sec. 263.153. NOTICE. (a) The commissioners court shall publish notice of a sale of surplus or salvage property in at least one newspaper of general circulation in the county.

(b) The notice must be published on or after the 30th day but before the 10th day before the date of the sale. (V.A.C.S. Art. 2372z, Sec. 2(b).)

Sec. 263.154. REJECTION OF OFFER. The commissioners court or its designated representative conducting the sale may reject any offer to purchase surplus or salvage property if the court or representative finds the rejection to be in the best interests of the county. (V.A.C.S. Art. 2372z, Sec. 2(e).)

Sec. 263.155. RECORD. (a) The commissioners court shall keep a record of each item of surplus or salvage property sold and the sale price of each item.

(b) The commissioners court shall keep a record of each item of surplus or salvage property destroyed. (V.A.C.S. Art. 2372z, Secs. 2(c), 3(b).)

Sec. 263.156. PROCEEDS. Unless otherwise provided by law, the commissioners court shall deposit the proceeds from the sale of surplus or salvage property:

(1) in the county treasury to the credit of the general fund or the fund from which the property was purchased; or

(2) if the property was used for maintenance or construction of county roads and bridges, in the county treasury to the credit of the county road and bridge fund. (V.A.C.S. Art. 2372z, Sec. 2(d).)

Sec. 263.157. TITLE. If a purchaser of surplus or salvage property at a sale held in accordance with this subchapter complies in good faith with the conditions of the sale and the applicable rules of the commissioners court, the purchaser obtains good title to the property. (V.A.C.S. Art. 2372z, Sec. 4.)

Sec. 263.158. RULES. The commissioners court may adopt rules necessary to administer this subchapter. (V.A.C.S. Art. 2372z, Sec. 5.)

[Sections 263.159–263.200 reserved for expansion]

SUBCHAPTER E. CONVEYANCE OF REAL PROPERTY FROM
COUNTY TO UNITED STATES

Sec. 263.201. ACQUISITION AND CONVEYANCE OF LAND FOR WATER PROJECTS. (a) If a county that has a part of its boundary coincident with a part of the international boundary between the United States and Mexico, or that is contiguous to such a county, has made an agreement with the United States to acquire and, on request, convey to the United States, with or without monetary consideration, land or an interest in land desired by the United States to enable the United States or an establishment of the United States to carry out an act of the United States Congress in aid of navigation, irrigation, flood control, or improvement of water courses and to accomplish a purpose specified by Article 5242, Revised Statutes, the commissioners court of the county may:

(1) on request by the United States through its proper officer for the conveyance of land, or an interest in land, that is necessary for the construction, operation, or maintenance of the water project, acquire the land or interest in land by gift or purchase or by condemnation in accordance with Chapter 21, Property Code, for ultimate conveyance to the United States; and

(2) pay for the land or interest in land from special flood control funds or other available county funds.

(b) In a condemnation by the county, the county, after the award by the special commissioners appointed under Chapter 21, Property Code, may file a declaration of taking adopted by resolution of the commissioners court and signed by the county judge.

(c) The declaration of taking must contain:

(1) a declaration that the land or interest in land described in the original petition is taken for a public purpose and for ultimate conveyance to the United States;

(2) a description of the land sufficient for the identification of the land;

(3) a statement of the estate or interest in the land being taken;

(4) a statement of the public use to be made of the land;

(5) a plan showing the land being taken; and

(6) a statement of the amount of damages awarded by the special commissioners, or by the jury on appeal, for the taking of the land.

(d) When the commissioners court files the declaration of taking with the county clerk, deposits money in an amount equal to the amount of the award against the county with the county clerk subject to the order of the defendant, and pays any costs awarded against the county:

(1) the land is considered to be condemned and taken for the uses specified in the declaration;

(2) the title to the estate or interest in the land specified in the declaration vests in the county; and

(3) the right to just compensation vests in the person entitled to the compensation.

(e) When title passes, the commissioners court may immediately convey the land or interest in land to the United States.

(f) An appeal from an award of the special commissioners or the service of process by publication does not suspend the vesting of title in the county. On appeal the only issue is the amount of damages due from the county to the owner of the land or interest in land for its taking. (V.A.C.S. Art. 5244a-2.)

Sec. 263.202. CONVEYANCE FOR PUBLIC BUILDING. (a) A county that owns land used for public purposes that exceeds the amount of land needed by the county for its public purposes may sell all or part of the excess to the United States at a private sale for any fair consideration approved by the commissioners court of the county. The sale must be made under the statutes of the United States authorizing the acquisition of sites for public buildings.

(b) The commissioners court of the county is responsible for determining whether an excess of land exists and the extent to which the excess may be sold and conveyed under this section.

(c) For a conveyance under this section to be effective, the commissioners court must authorize the conveyance by an order entered in its minutes. The order must:

- (1) describe the land to be conveyed;
- (2) state the consideration to be paid; and

(3) direct the county judge of the county to execute in the name of the county a conveyance to the United States and to promptly make delivery of the conveyance on payment of the consideration to the appropriate officer of the county.

(d) An instrument of conveyance executed by the county judge must be in the form, and contain the covenants and warranties, prescribed by the commissioners court. The instrument must reserve concurrent jurisdiction over the conveyed land for the service of all state criminal and civil process. (V.A.C.S. Art. 5248c, Secs. 1, 2, 3a.)

Sec. 263.203. CONVEYANCE FOR CIVIL WORKS PROJECT. If a county owns and controls land, or an interest in land, that is used or proposed to be used as a part of the site of a flood control, river and harbor improvement, water conservation, or other civil works project constructed or to be constructed by the United States, the county judge of the county, on order of the commissioners court or on a request of the United States that is supported by an order of the commissioners court, may convey an easement, or other interest in land, necessary for the construction, operation, and maintenance of the project to the United States or to a political subdivision, agency, or instrumentality of this state that is cooperating with the United States in the project. (V.A.C.S. Art. 5248c-2, Sec. 1 (part).)

Sec. 263.204. CONVEYANCE FOR MILITARY INSTALLATION OR FACILITY. If a county owns and controls land, or an interest in land, near a federally owned or operated military installation or facility, the county judge of the county, on order of the commissioners court or on a request of the United States that is supported by an order of the commissioners court, may convey to the United States an easement, or other interest in the land, that is necessary for the construction, operation, and maintenance of the installation or facility. (V.A.C.S. Art. 5248c-1, Sec. 1 (part).)

Sec. 263.205. CONSIDERATION. The commissioners court shall determine the consideration for a conveyance under Section 263.203 or 263.204 and may determine that monetary consideration is not required. (V.A.C.S. Art. 5248c-1, Sec. 1 (part); Art. 5248c-2, Sec. 1 (part).)

Sec. 263.206. ASSENT TO GRANT OF EASEMENT. If the county does not own the fee simple title to land described by Section 263.203 or 263.204 and if the owner of the fee simple has executed an easement to the land for the purposes for which a conveyance is authorized under Section 263.203 or 263.204, the county judge, on order of the commissioners court, may join in and assent to the easement in the instrument granting the easement or in a separate instrument. (V.A.C.S. Art. 5248c-1, Sec. 2; Art. 5248c-2, Sec. 2.)

[Chapters 264–269 reserved for expansion]

CHAPTER 270. MISCELLANEOUS PROVISIONS AFFECTING THE ACQUISITION, SALE, OR LEASE OF PROPERTY BY COUNTIES

Sec. 270.001. ACQUISITION OF REAL PROPERTY BY CONVEYANCE

Sec. 270.002. PURCHASE AND SALE OF PROPERTY AFTER JUDGMENT

Sec. 270.003. ACQUISITION AND USE OF PUBLIC PLATFORM TONNAGE SCALES

Sec. 270.004. AUTHORITY TO CONTRACT WITH FEDERAL GOVERNMENT FOR ACQUISITION OF LAND OR HOUSING

Sec. 270.005. CONTRACTS WITH FEDERAL GOVERNMENT FOR CONSTRUCTION IN COUNTY WITH POPULATION OF 240,001 TO 259,999

Sec. 270.006. REPORT ABOUT USE OF, OR ACCIDENT INVOLVING, EQUIPMENT IN COUNTY WITH POPULATION OF 500,000 OR MORE

CHAPTER 270. MISCELLANEOUS PROVISIONS AFFECTING THE ACQUISITION, SALE, OR LEASE OF PROPERTY BY COUNTIES

Sec. 270.001. ACQUISITION OF REAL PROPERTY BY CONVEYANCE. A deed, grant, or conveyance that is made, is acknowledged or proven, and is recorded as other

deeds of conveyance to a county, to the courts or commissioners of a county, or to another person for the use and benefit of a county vests in the county the right, title, interest, and estate that the grantor had in the property at the time the instrument was executed and that the grantor intended to convey. (V.A.C.S. Art. 1576.)

Sec. 270.002. PURCHASE AND SALE OF PROPERTY AFTER JUDGMENT. If property is sold under execution or order of sale on a judgment in favor of a county, including execution on a judgment in a case of scire facias in the name of the state, the attorney or agent representing the county, with the advice and consent of the commissioners court, may purchase and dispose of the property for the county in the same manner as an attorney or agent for the state under Article 4401, Revised Statutes. The officer selling the property shall execute and deliver to the county a deed to the property. On sale of the property by the county, the commissioners court, in the name of the county, shall execute and deliver to the purchaser a deed to the property. (V.A.C.S. Art. 4404.)

Sec. 270.003. ACQUISITION AND USE OF PUBLIC PLATFORM TONNAGE SCALES. (a) The commissioners court of a county may, on the presentation of a suitable written petition signed by 500 or more inhabitants of the county, purchase and install one or more public platform tonnage scales suitable and adapted for the weighing of livestock, produce, agricultural products, or other goods to facilitate the development of truck farming, cattle raising, or other trade or business in which the availability of a public scale is necessary or desirable.

(b) The commissioners court may operate a public scale. It may provide adequate personnel for this purpose or it may lease or rent, under terms and conditions it may set, the scale to a responsible private person.

(c) The commissioners court may prescribe rules concerning the use of a public scale, including the fee to be charged.

(d) A public scale provided for under this section must at all times be available for use by the public.

(e) The money that may be collected or received from the use or operation of a public scale or through a contract executed under this section shall be deposited in the general fund of the county. (V.A.C.S. Art. 2372n.)

Sec. 270.004. AUTHORITY TO CONTRACT WITH FEDERAL GOVERNMENT FOR ACQUISITION OF LAND OR HOUSING. (a) The commissioners court of a county may:

(1) contract with the United States, including the General Services Administrator and the Secretary of Housing and Urban Development and their successors, for:

(A) the acquisition of land or an interest in land located in the county that is owned by the United States; or

(B) the acquisition of temporary housing on land that the United States owns or controls;

(2) acquire from the United States, by purchase, gift, or otherwise, land or housing described in Subdivision (1); and

(3) own and operate land or housing acquired under this subsection.

(b) The commissioners court may:

(1) adopt a resolution or order requesting the United States to transfer to the county the land, housing, or the interest in the land or housing that the United States is authorized to convey or transfer to the county; and

(2) bind the county to comply with all terms and conditions imposed by the United States as a prerequisite to the transfer or conveyance of the land, housing, or the interest in the land or housing.

(c) The instrument or deed conveying to the county the land, housing, or the interest in the land or housing may contain conditions, provisions, covenants, or warranties prescribed by the United States and agreed on by the commissioners court acting for the county, provided the terms are not prohibited by the Texas Constitution.

(d) The commissioners court may issue negotiable bonds and levy taxes for the interest and sinking funds of the bonds, in accordance with Chapter 1, Title 22, Revised Statutes, to purchase or acquire in another manner the land or housing and to improve, enlarge, extend, or repair the land or housing. (V.A.C.S. Art. 2351, Subdiv. 19(a), (b), (c), as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 270.005. CONTRACTS WITH FEDERAL GOVERNMENT FOR CONSTRUCTION IN COUNTY WITH POPULATION OF 240,001 TO 259,999. (a) The commissioners court of a county with a population of 240,001 to 259,999 may contract with the United States government or a federal agency for:

- (1) the joint construction or improvement of roads, bridges, or other county improvements; or
- (2) the maintenance of a project constructed under this section.

(b) The county may pay for its part of the expense of a project constructed under this section from available county funds. (V.A.C.S. Art. 1578a.)

Sec. 270.006. REPORT ABOUT USE OF, OR ACCIDENT INVOLVING, EQUIPMENT IN COUNTY WITH POPULATION OF 500,000 OR MORE. (a) In this section, "equipment" means equipment purchased with and operated with public funds or personal equipment for which an employee or officer is reimbursed by a county or flood control district for operation and maintenance charges.

(b) This section applies only to a county with a population of 500,000 or more.

(c) An officer or employee of a county, a district officer, or an employee of a flood control district in the county who operates equipment shall file with each payroll a report for each piece of equipment in the charge of the employee or officer, showing:

- (1) the daily use of the equipment;
- (2) the time and mileage run;
- (3) the amount spent for repairs;
- (4) the gasoline, oil, and grease purchased; and
- (5) the road, bridge, or project on which work was performed.

(d) The report must be in writing and must be signed and certified by the officer or employee actually using the equipment.

(e) An officer or employee of the county, a district officer, or an employee of a flood control district in the county shall file a report of an accident involving equipment in the charge of the employee or officer. The report must give the cause, damage, location, circumstances, and persons and equipment involved in the accident.

(f) A report under this section must be on a prescribed form and must be filed on or before the fifth day of the month succeeding the period of operation.

(g) A report under this section must disclose all facts essential to a proper analysis of maintenance and operating costs and other statistical purposes. (V.A.C.S. Art. 2372h, Secs. 1 (part), 4.)

SUBTITLE C. ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO
MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 271. PURCHASING AND CONTRACTING AUTHORITY OF MUNICI-
PALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. PUBLIC PROPERTY FINANCE ACT

- Sec. 271.001. SHORT TITLE
- Sec. 271.002. PURPOSE
- Sec. 271.003. DEFINITIONS
- Sec. 271.004. REAL PROPERTY IMPROVEMENTS NOT COVERED
- Sec. 271.005. AUTHORITY TO CONTRACT FOR PERSONAL PROPERTY
- Sec. 271.006. COMPLIANCE WITH OTHER REQUIREMENTS
- Sec. 271.007. APPROVED AND REGISTERED CONTRACT
- Sec. 271.008. AUTHORIZED INVESTMENTS
- Sec. 271.009. TERM OF CONTRACT

[Sections 271.010–271.020 reserved for expansion]

SUBCHAPTER B. COMPETITIVE BIDDING ON CERTAIN
PUBLIC WORKS CONTRACTS

- Sec. 271.021. DEFINITION
- Sec. 271.022. EXEMPT CONTRACT
- Sec. 271.023. MUNICIPAL CHARTER PREVAILS IN CASE OF CONFLICT
- Sec. 271.024. COMPETITIVE BIDDING PROCEDURE APPLICABLE TO CONTRACT
- Sec. 271.025. ADVERTISEMENT FOR BIDS
- Sec. 271.026. OPENING OF BIDS
- Sec. 271.027. AWARD OF CONTRACT
- Sec. 271.028. EFFECT OF NONCOMPLIANCE

[Sections 271.029–271.040 reserved for expansion]

SUBCHAPTER C. CERTIFICATE OF OBLIGATION ACT

- Sec. 271.041. SHORT TITLE
- Sec. 271.042. PURPOSE; CONFLICT
- Sec. 271.043. DEFINITIONS
- Sec. 271.044. SUBCHAPTER AVAILABLE TO CERTAIN MUNICIPALITIES
- Sec. 271.045. PURPOSES FOR WHICH CERTIFICATES MAY BE AUTHORIZED
- Sec. 271.046. ADDITIONAL PURPOSE FOR CERTIFICATES: CONSTRUCTION OR
IMPROVEMENT OF JAIL
- Sec. 271.047. AUTHORIZATION OF CERTIFICATES BY ORDINANCE OR ORDER;
OTHER PROVISIONS IN CERTIFICATES
- Sec. 271.048. CLAIMS AND ACCOUNTS; FUNDING AND EXCHANGE
- Sec. 271.049. NOTICE OF INTENTION TO ISSUE CERTIFICATES; PETITION AND
ELECTION
- Sec. 271.050. SALE OF CERTIFICATES
- Sec. 271.051. CERTIFICATES AS INVESTMENTS OR AS SECURITY FOR DEPOSITS
- Sec. 271.052. CERTIFICATES PAYABLE FROM AND SECURED BY OTHER REVE-
NUES
- Sec. 271.053. CERTIFICATES AS DEBT AND SECURITY
- Sec. 271.054. COMPETITIVE BIDDING REQUIREMENT
- Sec. 271.055. NOTICE TO BIDDERS
- Sec. 271.056. EXEMPTIONS FROM ADVERTISEMENT REQUIREMENT
- Sec. 271.057. AWARD OF CONTRACT
- Sec. 271.058. AUTHORITY TO REJECT BIDS
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- Sec. 271.062. CERTAIN CONTRACTS NOT REQUIRED TO BE IN WRITING
- Sec. 271.063. UNCONSTITUTIONAL PROCEDURE CORRECTED BY RESOLUTION
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[Sections 271.064–271.080 reserved for expansion]

SUBCHAPTER D. STATE COOPERATION IN LOCAL PURCHASING PROGRAMS

- Sec. 271.081. DEFINITION
- Sec. 271.082. PURCHASING PROGRAM
- Sec. 271.083. LOCAL GOVERNMENT PARTICIPATION

[Sections 271.084–271.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 271.901. PROCEDURE FOR AWARDING CONTRACT IF MUNICIPALITY OR DISTRICT RECEIVES IDENTICAL BIDS
- Sec. 271.902. PROHIBITION OF CONFLICT OF INTEREST IN PURCHASE BY MUNICIPALITY OR COUNTY FROM COOPERATIVE ASSOCIATIONS

SUBTITLE C. ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 271. PURCHASING AND CONTRACTING AUTHORITY OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. PUBLIC PROPERTY FINANCE ACT

Sec. 271.001. SHORT TITLE. This subchapter may be cited as the Public Property Finance Act. (V.A.C.S. Art. 2368a.2, Sec. 1.)

Sec. 271.002. PURPOSE. (a) The legislature finds that the purchase or other acquisition or the use of personal property by governmental agencies and the financing of those activities are necessary to the efficient and economic operation of government.

(b) This subchapter promotes a public purpose by furnishing governmental agencies with a feasible means to purchase or otherwise acquire, use, and finance public personal property. (V.A.C.S. Art. 2368a.2, Sec. 2.)

Sec. 271.003. DEFINITIONS. In this subchapter:

(1) "Conservation and reclamation district" means a district or authority organized or operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(2) "Contract" means an agreement entered into under this subchapter.

(3) "Governing body" means the board, council, commission, agency, court, or other body or group that is authorized by law to acquire personal property for each respective governmental agency.

(4) "Governmental agency" means a municipality, county, school district, conservation and reclamation district, hospital organization, or other political subdivision of this state.

(5) "Hospital organization" means a district, authority, board, or joint board organized under the laws of this state for hospital purposes.

(6) "Net effective interest rate" means, with reference to a contract, the interest amount considered by the governing body of a governmental agency to accrue on a contract.

(7) "Net interest cost" means the total of all interest to accrue and come due on a contract through the last date a payment is due on the contract, plus any discount or minus any premium included in the contract price or principal sum.

(8) "Personal property" includes appliances, equipment, facilities, and furnishings, or an interest in personal property, whether movable or fixed, considered by the governing body of the governmental agency to be necessary, useful, or appropriate to one or more purposes of the governmental agency. The term does not include real property.

(9) "School district" means an independent school district, common school district, community college district, junior college district, or regional college district organized under the laws of this state. (V.A.C.S. Art. 2368a.2, Sec. 3 (part).)

Sec. 271.004. REAL PROPERTY IMPROVEMENTS NOT COVERED. This subchapter does not apply to a contract solely for the construction of improvements to real property. (V.A.C.S. Art. 2368a.2, Sec. 9 (part).)

Sec. 271.005. AUTHORITY TO CONTRACT FOR PERSONAL PROPERTY. (a) The governing body of a governmental agency may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property. The contract is an obligation of the governmental agency. The contract may:

- (1) be on the terms considered appropriate by the governing body;
- (2) be in the form of a lease, a lease with an option or options to purchase, an installment purchase, or any other form considered appropriate by the governing body;
- (3) be for a term approved by the governing body and contain an option or options to renew or extend the term; and
- (4) be made payable from a pledge of all or any part of any revenues, funds, or taxes available to the governmental agency for its public purposes.

(b) If a contract retains to the governing body the continuing right to terminate at the expiration of each budget period of the governmental agency during the term of the contract, the contract is a commitment of the governmental agency's current revenues only.

(c) A contract may provide for the payment of interest on the unpaid amounts of the contract at a rate or rates and may contain prepayment provisions, termination penalties, and other provisions determined within the discretion of the governing body. The net effective interest rate on the contract may not exceed the net effective interest rate at which public securities may be issued in accordance with Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on the unpaid amounts of a contract shall be computed as simple interest.

(d) Subject only to applicable constitutional restrictions, the governing body may obligate taxes or revenues for the full term of a contract for the payment of the contract. (V.A.C.S. Art. 2368a.2, Secs. 3 (part), 4.)

Sec. 271.006. COMPLIANCE WITH OTHER REQUIREMENTS. In entering into the contract, a municipality must comply with the requirements of Chapter 252 and a county must comply with the requirements of Subchapter C, Chapter 262. However, the municipality or county is not required to submit to a referendum the question of entering into the contract. (V.A.C.S. Art. 2368a.2, Sec. 5.)

Sec. 271.007. APPROVED AND REGISTERED CONTRACT. (a) If the governing body approves the contract and the contract provides for the payment of an aggregate amount of \$100,000 or more, the governing body may submit the contract and the record relating to the contract to the attorney general for examination as to the validity of the contract. The attorney general shall approve the contract if it has been made in accordance with the constitution and other laws of this state, and the contract then shall be registered by the comptroller of public accounts.

(b) After the contract has been approved and registered as provided by this section, the contract is valid and is incontestable for any cause. The legal obligation of the lessor, vendor, or supplier of personal property to the governmental agency is not diminished in any respect by the approval and registration of the contract. (V.A.C.S. Art. 2368a.2, Sec. 6.)

Sec. 271.008. AUTHORIZED INVESTMENTS. The contract is a legal and authorized investment for:

- (1) banks, savings banks, trust companies, and savings and loan associations;
- (2) insurance companies;
- (3) fiduciaries and trustees; and

(4) the sinking funds of a county, municipality, school district, or other political subdivision or corporation of this state. (V.A.C.S. Art. 2368a.2, Sec. 7.)

Sec. 271.009. TERM OF CONTRACT. The contract may be for any term not to exceed 25 years. (V.A.C.S. Art. 2368a.2, Sec. 8.)

[Sections 271.010–271.020 reserved for expansion]

SUBCHAPTER B. COMPETITIVE BIDDING ON CERTAIN
PUBLIC WORKS CONTRACTS

Sec. 271.021. DEFINITION. In this subchapter, “governmental entity” means:

- (1) a county;
- (2) a municipality;
- (3) a common or independent school district;
- (4) a special district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution;
- (5) a hospital district or authority;
- (6) a housing authority; or
- (7) an agency or instrumentality of the governmental entities described by Subdivisions (1) through (6). (V.A.C.S. Art. 2368a.3, Sec. 1.)

Sec. 271.022. EXEMPT CONTRACT. This subchapter does not affect a contract required to be awarded under the Professional Services Procurement Act (Article 664–4, Vernon’s Texas Civil Statutes). (V.A.C.S. Art. 2368a.3, Sec. 7(b).)

Sec. 271.023. MUNICIPAL CHARTER PREVAILS IN CASE OF CONFLICT. To the extent that the charter of a home-rule municipality conflicts with this subchapter, the charter prevails. (V.A.C.S. Art. 2368a.3, Sec. 7(a).)

Sec. 271.024. COMPETITIVE BIDDING PROCEDURE APPLICABLE TO CONTRACT. If a governmental entity is required by statute to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than \$10,000 from the funds of the entity, the bidding on the contract must be accomplished in the manner provided by this subchapter. (V.A.C.S. Art. 2368a.3, Secs. 2, 7(c).)

Sec. 271.025. ADVERTISEMENT FOR BIDS. (a) The governmental entity must advertise for bids. The advertisement for bids must include a notice that:

- (1) describes the work;
 - (2) states the location at which the bidding documents, plans, specifications, or other data may be examined by all bidders; and
 - (3) states the time and place for submitting bids and the time and place that bids will be opened.
- (b) The advertisement must be published as required by law. If no legal requirement for publication exists, the advertisement must be published at least twice in one or more newspapers of general circulation in the county or counties in which the work is to be performed. The second publication must be on or before the 10th day before the first date bids may be submitted.

(c) The governmental entity must mail a notice containing the information required under Subsection (a) to any organization that:

- (1) requests in advance that notices for bids be sent to it;
- (2) agrees in writing to pay the actual cost of mailing the notice; and
- (3) certifies that it circulates notices for bids to the construction trade in general.

(d) The governmental entity shall mail a notice required under Subsection (c) on or before the date the first newspaper advertisement under this section is published. (V.A.C.S. Art. 2368a.3, Sec. 3.)

Sec. 271.026. OPENING OF BIDS. (a) Bids may be opened only by the governing body of the governmental entity at a public meeting or by an officer or employee of the governmental entity at or in an office of the governmental entity. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.

(b) This subchapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid. (V.A.C.S. Art. 2368a.3, Sec. 4.)

Sec. 271.027. AWARD OF CONTRACT. (a) The governmental entity is entitled to reject any and all bids.

(b) The contract must be awarded to the lowest responsible bidder, but the contract may not be awarded to a bidder who is not the lowest bidder unless before the award each lower bidder is given notice of the proposed award and is given an opportunity to appear before the governing body of the governmental entity or the designated representative of the governing body and present evidence concerning the bidder's responsibility. (V.A.C.S. Art. 2368a.3, Sec. 5.)

Sec. 271.028. EFFECT OF NONCOMPLIANCE. A contract awarded in violation of this subchapter is void. (V.A.C.S. Art. 2368a.3, Sec. 6.)

[Sections 271.029–271.040 reserved for expansion]

SUBCHAPTER C. CERTIFICATE OF OBLIGATION ACT

Sec. 271.041. SHORT TITLE. This subchapter may be cited as the Certificate of Obligation Act of 1971. (V.A.C.S. Art. 2368a.1, Sec. 1.)

Sec. 271.042. PURPOSE; CONFLICT. (a) It is the purpose of this subchapter to provide:

(1) a procedure for certain financing that is an alternative to the more cumbersome procedure under Chapter 252 of this code and the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes); and

(2) a new class of securities to be issued and delivered within the financial capabilities of an issuer on compliance with the procedures prescribed by this subchapter.

(b) If there is a conflict between a provision of this subchapter and a provision of either Chapter 252 of this code or the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes), an issuer may use either provision, and it is not necessary for the governing body to designate the law under which action is being taken. (V.A.C.S. Art. 2368a.1, Sec. 10 (part).)

Sec. 271.043. DEFINITIONS. In this subchapter:

(1) "Bond funds" means money received from the sale of bonds by the issuer.

(2) "Certificate" means a certificate of obligation authorized to be issued under this subchapter.

(3) "Contractual obligation" means a contract entered into by an issuer through its governing body and executed under Section 271.054 or 271.056.

(4) "Current funds" means money in the treasury of the issuer, taxes in the process of collection during the current budget year of the issuer, and all other revenues anticipated with reasonable certainty during the current budget year of the issuer.

(5) "Governing body" means the board, council, commission, court, or other body or group authorized to issue bonds for or on behalf of an issuer.

(6) "Issuer" means a municipality or county. (V.A.C.S. Art. 2368a.1, Secs. 2(a), (b), (d) (part), (f), (g), (h).)

Sec. 271.044. SUBCHAPTER AVAILABLE TO CERTAIN MUNICIPALITIES. (a) A municipality may use this subchapter only if the municipality:

(1) is incorporated under the home-rule amendment to the constitution (Article XI, Section 5, of the Texas Constitution); or

(2) is incorporated under a general or special law and the municipality has the authority to levy an ad valorem tax of not less than \$1.50 on each \$100 valuation of taxable property in the municipality.

(b) A home-rule municipality may use this subchapter regardless of any provision in the municipality's charter to the contrary. (V.A.C.S. Art. 2368a.1, Secs. 2(c), 10(a).)

Sec. 271.045. PURPOSES FOR WHICH CERTIFICATES MAY BE AUTHORIZED.

(a) The governing body of an issuer may authorize certificates to pay a contractual obligation to be incurred for the:

- (1) construction of any public work;
- (2) purchase of materials, supplies, equipment, machinery, buildings, land, and rights-of-way for authorized needs and purposes; or
- (3) payment of contractual obligations for professional services, including services provided by tax appraisal engineers, engineers, architects, attorneys, map makers, auditors, financial advisors, and fiscal agents.

(b) If necessary because of change orders, certificates may be authorized in an amount not to exceed 25 percent of a contractual obligation incurred for the construction of public works, but certificates may be delivered only in the amount necessary to discharge contractual obligations. (V.A.C.S. Art. 2368a.1, Sec. 3.)

Sec. 271.046. ADDITIONAL PURPOSE FOR CERTIFICATES: CONSTRUCTION OR IMPROVEMENT OF JAIL. (a) Certificates may be issued for the payment of contractual obligations to be incurred in constructing or equipping a jail and may be sold for cash, subject to the restrictions and other conditions of Section 271.050.

(b) The provisions of this subchapter relating to advertisement for competitive bids apply to contractual obligations to be incurred in building or equipping a jail under this section. (V.A.C.S. Art. 2368a.1, Sec. 7A.)

Sec. 271.047. AUTHORIZATION OF CERTIFICATES BY ORDINANCE OR ORDER; OTHER PROVISIONS IN CERTIFICATES. (a) Certificates may be authorized by an ordinance adopted by the governing body of a municipality, or by an order adopted by the governing body of a county after compliance with the quorum requirements prescribed by Section 81.006.

(b) The governing body may:

- (1) make the certificates payable at times and places determined by the governing body;
- (2) issue the certificates in forms and one or more denominations, either in coupon form or registered as to principal and interest, or both;
- (3) make the certificates contain options for redemption before scheduled maturity; and
- (4) make the certificates contain any other provisions the governing body desires.

(c) A certificate may not mature over a period greater than 40 years from the date of the certificate and may not bear interest at a rate greater than that allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 2368a.1, Sec. 9.)

Sec. 271.048. CLAIMS AND ACCOUNTS; FUNDING AND EXCHANGE. (a) A governing body may provide that claims and accounts may, after certificates are authorized, be incurred for authorized purposes and that the claims and accounts represent an undivided interest in the certificates simultaneously authorized. The governing body may also provide for the funding or exchange of the claims and accounts for a like total principal amount of the certificates, with any amount in excess of the principal amount of the certificates delivered at one time to be paid in cash or carried forward to a subsequent exchange of claims and accounts for certificates.

(b) The authorization of certificates and the indebtedness they evidence may occur before the execution of a contract under this subchapter.

(c) This section does not create any exception to the competitive bidding requirements of this subchapter. (V.A.C.S. Art. 2368a.1, Sec. 4.)

Sec. 271.049. NOTICE OF INTENTION TO ISSUE CERTIFICATES; PETITION AND ELECTION. (a) Regardless of the sources of payment of certificates, certificates may not be issued unless the issuer publishes notice of its intention to issue the

certificates. The notice must be published once a week for two consecutive weeks in a newspaper, as defined by Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 28a, Vernon's Texas Civil Statutes), that is of general circulation in the area of the issuer, with the date of the first publication to be before the 14th day before the date tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates.

(b) The notice must state:

- (1) the time and place tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates;
- (2) the maximum amount and purpose of the certificates to be authorized; and
- (3) the manner in which the certificates will be paid for, whether by taxes, revenues, or a combination of the two.

(c) If before the date tentatively set for the authorization of the issuance of the certificates or if before the authorization, the municipal secretary or clerk if the issuer is a municipality, or the county clerk if the issuer is a county, receives a petition signed by at least five percent of the qualified voters of the issuer protesting the issuance of the certificates, the issuer may not authorize the issuance of the certificates unless the issuance is approved at an election ordered, held, and conducted in the manner provided for bond elections under Chapter 1, Title 22, Revised Statutes.

(d) This section does not apply to certificates issued for the purposes described by Sections 271.056(1)-(5). (V.A.C.S. Art. 2368a.1, Sec. 8(b).)

Sec. 271.050. SALE OF CERTIFICATES. (a) The governing body may sell for cash any certificates authorized to be issued for one or more purposes described by Section 271.056.

(b) The proceeds may be used only for the purposes for which the certificates were authorized. The proceeds may not be used to pay for work done by employees of the issuer and paid for as work progresses. Any accrued interest received must be deposited in the interest and sinking fund established for the payment of the certificates.

(c) A certified copy of the proceedings relating to the authorization of the certificates must be submitted to the attorney general and must be approved by the attorney general as having been authorized in accordance with this subchapter. The attorney general shall examine the proceedings relating to the authorization of the certificates. Articles 709 through 716, Revised Statutes, and the Texas Uniform Facsimile Signature of Public Officials Act (Article 717j-1, Vernon's Texas Civil Statutes) govern the execution, approval, registration, and validity of the certificates. After registration of the certificates by the comptroller of public accounts, the certificates are incontestable for any cause. (V.A.C.S. Art. 2368a.1, Sec. 7 (part).)

Sec. 271.051. CERTIFICATES AS INVESTMENTS OR AS SECURITY FOR DEPOSITS. (a) Certificates approved by the attorney general are legal and authorized investments for:

- (1) banks, savings banks, trust companies, and savings and loan associations;
- (2) insurance companies;
- (3) fiduciaries, trustees, and guardians; and
- (4) sinking funds of municipalities, counties, school districts, or other political corporations or subdivisions of the state.

(b) Certificates approved by the attorney general are eligible to secure deposits of public funds of the state or a municipality, county, school district, or other political corporation or subdivision of the state. The certificates are sufficient security for the deposits to the extent of the face value of the certificates, if accompanied by any appurtenant unmatured interest coupons. (V.A.C.S. Art. 2368a.1, Sec. 7 (part).)

Sec. 271.052. CERTIFICATES PAYABLE FROM AND SECURED BY OTHER REVENUES. (a) The governing body, instead of or in addition to other methods of payment provided by this subchapter, may provide that certificates will be paid from and secured

by other revenues if the issuer is authorized by the state constitution or other statutes to secure or pay any kind of general or special obligation by or from those revenues.

(b) The issuer may deliver certificates secured under this section in exchange for services or property in the same manner and with the same effect as otherwise provided by this subchapter or may sell the certificates for cash. (V.A.C.S. Art. 2368a.1, Sec. 8a.)

Sec. 271.053. **CERTIFICATES AS DEBT AND SECURITY.** Certificates are debts of the issuer within the meaning of Article XI, Sections 5 and 7, of the Texas Constitution. When delivered, certificates are "security" within the meaning of Chapter 8, Business & Commerce Code, and are general obligations of the issuer within the meaning of Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 2368a.1, Sec. 8.)

Sec. 271.054. **COMPETITIVE BIDDING REQUIREMENT.** Before the governing body of an issuer may enter into a contract requiring an expenditure by or imposing an obligation or liability on the issuer, or on a subdivision of the issuer if the issuer is a county, of more than \$5,000, the governing body must submit the proposed contract to competitive bidding. (V.A.C.S. Art. 2368a.1, Sec. 6(a).)

Sec. 271.055. **NOTICE TO BIDDERS.** (a) An issuer must give notice of the time, date, and place at which the issuer will let a contract for which competitive bidding is required by this subchapter. The notice must be given in accordance with Subsection (b) or in accordance with:

- (1) Chapter 252, if the issuer is a municipality;
- (2) the municipal charter of the issuer, if the issuer is a home-rule municipality; or
- (3) the County Purchasing Act (Subchapter C, Chapter 262), if the issuer is a county.

(b) If an issuer gives notice under this subsection, the notice must:

(1) be published once a week for two consecutive weeks in a newspaper, as defined by Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 28a, Vernon's Texas Civil Statutes), that is of general circulation in the area of the issuer, with the date of the first publication to be before the 14th day before the date set for the receipt of bids; and

(2) state that plans and specifications for the work to be done or specifications for the machinery, supplies, equipment, or materials to be purchased are on file with a designated official of the issuer and may be examined without charge.

(c) If the contract is to be let on a unit price basis, in addition to the other information required to be in the notice, the notice must specify, based on the best available information, the approximate quantities of the items needed by the issuer that are to be bid on.

(d) An issuer may not authorize certificates unless the notice also states that:

(1) the successful bidder must accept the certificates in payment for all or part of the contract price; or

(2) the governing body has made provisions for the contractor to sell and assign the certificates and that each bidder is required, at the time of the receipt of the bids, to elect whether the bidder will:

(A) accept the certificates in payment of all or part of the contract price; or

(B) assign the certificates in accordance with the arrangements made by the governing body. (V.A.C.S. Art. 2368a.1, Secs. 5, 6(b) (part).)

Sec. 271.056. **EXEMPTIONS FROM ADVERTISEMENT REQUIREMENT.** The provisions of this subchapter relating to the advertisement for competitive bids do not apply to:

(1) a case of public calamity if it is necessary to act promptly to relieve the necessity of the residents or to preserve the property of the issuer;

(2) a case in which it is necessary to preserve or protect the public health of the residents of the issuer;

(3) a case of unforeseen damage to public machinery, equipment, or other property;

- (4) a contract for personal or professional services;
- (5) work done by employees of the issuer and paid for as the work progresses;
- (6) the purchase of any land, building, existing utility system, or right-of-way for authorized needs and purposes;
- (7) expenditures for or relating to improvements in municipal water systems, sewer systems, streets, or drainage, if at least one-third of the cost of the improvements is to be paid by special assessments levied against properties to be benefitted by the improvements;
- (8) a case in which the entire contractual obligation is to be paid from bond funds or current funds or in which an advertisement for bids has previously been published in accordance with this subchapter but the current funds or bond funds are not adequate to permit the awarding of the contract and certificates are to be awarded to provide for the deficiency;
- (9) the sale of a public security, as that term is defined by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes);
- (10) a municipal procurement of a kind that, under Chapter 252, is not required to be made in accordance with competitive bidding procedures like those prescribed by this subchapter; or
- (11) a county contract that, under the County Purchasing Act (Subchapter C, Chapter 262), is not required to be made in accordance with competitive bidding procedures like those prescribed by this subchapter. (V.A.C.S. Art. 2368a.1, Sec. 7 (part).)

Sec. 271.057. **AWARD OF CONTRACT.** A contract let under this subchapter for the construction of public works or the purchase of materials, equipment, supplies, or machinery and for which competitive bidding is required by this subchapter must be let to the lowest responsible bidder and, as the governing body determines, may be let on a lump-sum basis or unit price basis. (V.A.C.S. Art. 2368a.1, Sec. 6(b) (part).)

Sec. 271.058. **AUTHORITY TO REJECT BIDS.** The governing body may reject any and all bids submitted for a contract for which competitive bidding is required by this subchapter. (V.A.C.S. Art. 2368a.1, Sec. 6(d) (part).)

Sec. 271.059. **CONTRACTOR'S BONDS.** If a contract is for the construction of public works and is required by this subchapter to be submitted to competitive bidding, the successful bidder must execute a good and sufficient payment bond and performance bond. The bonds must each be:

- (1) in the full amount of the contract price; and
- (2) executed, in accordance with Article 5160, Revised Statutes, with a surety company authorized to do business in this state. (V.A.C.S. Art. 2368a.1, Sec. 6(d) (part).)

Sec. 271.060. **CHANGE ORDERS.** (a) After performance of a construction contract begins, a governing body may approve change orders if necessary to:

- (1) make changes in plans or specifications; or
- (2) decrease or increase the quantity of work to be performed or materials, equipment, or supplies to be furnished.

(b) The total price of a contract may not be increased by a change order unless provision has been made for the payment of the added cost by the appropriation of current funds or bond funds for that purpose, by the authorization of the issuance of certificates, or by a combination of those procedures. The original contract price may not be increased by more than 25 percent. The original price may not be decreased by more than 25 percent without the consent of the contractor. (V.A.C.S. Art. 2368a.1, Sec. 6(c).)

Sec. 271.061. **COMPENSATION ON UNIT PRICE CONTRACTS.** If a contract is let on a unit price basis, the compensation paid to the contractor must be based on the actual quantities of items constructed or supplied. (V.A.C.S. Art. 2368a.1, Sec. 6(b) (part).)

Sec. 271.062. CERTAIN CONTRACTS NOT REQUIRED TO BE IN WRITING. A contract executed under Section 271.054 or 271.056 is not required to be in writing if the work to be performed under the contract:

- (1) is legal services;
- (2) is to be done by the regular salaried employees of the issuer; or
- (3) is to be paid for as the work progresses. (V.A.C.S. Art. 2368a.1, Sec. 2(d) (part).)

Sec. 271.063. UNCONSTITUTIONAL PROCEDURE CORRECTED BY RESOLUTION OF ISSUER. If a procedure used under this subchapter is held to be in violation of the state or federal constitution, an issuer by resolution may provide an alternative procedure that conforms to the constitution. (V.A.C.S. Art. 2368a.1, Sec. 11 (part).)

[Sections 271.064–271.080 reserved for expansion]

SUBCHAPTER D. STATE COOPERATION IN LOCAL PURCHASING PROGRAMS

Sec. 271.081. DEFINITION. In this subchapter, “local government” means a county, municipality, special district, school district, junior college district, or other legally constituted political subdivision of the state. (V.A.C.S. Art. 664–7, Sec. 1.)

Sec. 271.082. PURCHASING PROGRAM. (a) The State Purchasing and General Services Commission shall establish a program by which the commission performs purchasing services for local governments. The services must include:

- (1) the extension of state contract prices to participating local governments when the commission considers it feasible;
- (2) solicitation of bids on items desired by local governments if the solicitation is considered feasible by the commission and is desired by the local government; and
- (3) provision of information and technical assistance to local governments about the purchasing program.

(b) The commission may charge a participating local government an amount not to exceed the actual costs incurred by the commission in providing purchasing services to the local government under the program.

(c) The commission may adopt rules and procedures necessary to administer the purchasing program. (V.A.C.S. Art. 664–7, Sec. 2.)

Sec. 271.083. LOCAL GOVERNMENT PARTICIPATION. (a) A local government may participate in the purchasing program of the commission by filing with the commission a resolution adopted each year by the governing body of the local government requesting that the local government be allowed to participate and stating that the local government will:

- (1) designate an official to act for the local government in all matters relating to the program, including the designation of specific contracts in which the local government desires to participate, and that the governing body will direct the decisions of the representative;
- (2) purchase from the contracts made under this subchapter, except in emergencies;
- (3) be responsible for payment directly to the vendor under each contract; and
- (4) be responsible for the vendor’s compliance with all conditions of delivery and quality of the purchased item.

(b) A local government that purchases an item under a state contract satisfies any state law requiring the local government to seek competitive bids for the purchase of the item. (V.A.C.S. Art. 664–7, Sec. 3.)

[Sections 271.084–271.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 271.901. PROCEDURE FOR AWARDING CONTRACT IF MUNICIPALITY OR DISTRICT RECEIVES IDENTICAL BIDS. (a) If a municipality or district is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the municipality or district shall enter into a contract with only one of those bidders and must reject all other bids.

(b) The municipality or district must select from the identical bids by the casting of lots. The casting of lots must be in a manner prescribed by the mayor of the municipality or the governing body of the district and must be conducted in the presence of the governing body of the municipality or district. All qualified bidders or their legal representatives may be present at the casting of lots.

(c) This section does not prohibit a municipality or district from rejecting all bids.

(d) This section applies to all municipalities and districts required by general or special law or by municipal ordinance or charter to accept bids and award contracts on the basis of the lowest and best bid, but does not apply to bidding for contracts to act as a depository for public funds or as a depository for school funds under Subchapter E, Chapter 23, Education Code. (V.A.C.S. Art. 2367a.)

Sec. 271.902. PROHIBITION OF CONFLICT OF INTEREST IN PURCHASE BY MUNICIPALITY OR COUNTY FROM COOPERATIVE ASSOCIATIONS. If a member of the governing body or an appointed board or commission of a municipality or county belongs to a cooperative association, the municipality or county may purchase equipment or supplies from the association only if no member of the governing body, board, or commission will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association. (V.A.C.S. Art. 988a.)

CHAPTER 272. SALE OR LEASE OF PROPERTY BY MUNICIPALITIES,
COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 272.001. NOTICE OF SALE OR EXCHANGE OF LAND BY POLITICAL SUBDIVISION; EXCEPTIONS

Sec. 272.002. CONVEYANCES BY CERTAIN POLITICAL SUBDIVISIONS TO THE UNITED STATES FOR PURPOSES RELATED TO WATERWAYS

Sec. 272.003. RENTAL OF OFFICE SPACE BY COUNTY OR MUNICIPALITY FOR UNEMPLOYMENT RELIEF ADMINISTRATION

CHAPTER 272. SALE OR LEASE OF PROPERTY BY MUNICIPALITIES,
COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 272.001. NOTICE OF SALE OR EXCHANGE OF LAND BY POLITICAL SUBDIVISION; EXCEPTIONS. (a) Except for the types of land and interests described by Subsection (b), before land owned by a political subdivision of the state may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication.

(b) The notice and bidding requirements of Subsection (a) do not apply to the types of land and real property interests described by this subsection and owned by a political subdivision. That land and those interests may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest. The fair market value is determined by an appraisal obtained by the political subdivision that owns the land or

interest, and the appraisal is conclusive of the fair market value of the land or interest. This subsection applies to:

- (1) narrow strips of land, or land that because of its shape or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
- (2) streets or alleys, owned in fee or used by easement;
- (3) an easement for which one or more abutting property owners own the underlying fee simple;
- (4) land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, or easements, including transactions partly for cash;
- (5) land that the political subdivision wants to have developed by contract with an independent foundation; or
- (6) a real property interest conveyed to a governmental entity that has the power of eminent domain.

(c) The land or interests described by Subsections (b)(1), (2), and (3) may be sold to abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

(d) This section does not require the governing body of a political subdivision to accept any bid or offer or to complete a sale or exchange.

(e) This section does not apply to land in the permanent school fund that is authorized by legislation to be exchanged for other land of at least equal value. (V.A.C.S. Art. 5421c-12.)

Sec. 272.002. CONVEYANCES BY CERTAIN POLITICAL SUBDIVISIONS TO THE UNITED STATES FOR PURPOSES RELATED TO WATERWAYS. (a) This section applies to property, including land or an interest in land, that:

(1) is owned by:

(A) a county having a boundary coinciding with a part of the international boundary between the United States and Mexico;

(B) a county contiguous to a county described by Paragraph (A); or

(C) a municipal corporation, political subdivision, or district organized under the state constitution and statutes and located in a county described by Paragraph (A) or (B), including a municipality, independent school district, common school district, water improvement district, water control and improvement district, navigation district, road district, levee district, or drainage district; and

(2) is desired by the United States to enable a department or establishment of the United States to carry out a federal law in aid of navigation, flood control, or improvement of water courses and to accomplish the purposes specified by Article 5242, Revised Statutes, and is necessary for the construction, operation, and maintenance of works required for those purposes.

(b) On the request of the United States through its proper officers, an entity described by Subsection (a)(1) may convey with or without monetary consideration the title or an easement to the property to the United States or to another entity described by Subsection (a)(1) that has agreed by resolution of its governing body to acquire the property for conveyance to the United States.

(c) All rights conferred by law to the Port of Harlingen Authority to develop a navigation project and all improvements incidental, necessary, or convenient for that project are reserved for the authority. This section does not take away any right of the authority to dredge, widen, straighten, or otherwise improve the Arroyo-Colorado and all

other lakes, bays, streams, or bodies of water within, or adjacent or appurtenant to, the boundaries of the authority as a navigation project or to construct turning basins, yacht basins, or port facilities. (V.A.C.S. Art. 5244a, Sec. 1 (part).)

Sec. 272.003. RENTAL OF OFFICE SPACE BY COUNTY OR MUNICIPALITY FOR UNEMPLOYMENT RELIEF ADMINISTRATION. (a) The commissioners court of a county or the governing body of a municipality may lease, rent, or provide office space to aid and cooperate with state and federal agencies engaged in the administration of relief to the unemployed or needy people of the state. The commissioners court or governing body may pay the regular monthly utility bills for the office space, including bills for electricity, gas, and water.

(b) If a majority of the commissioners court considers the office space essential to the proper administration of the state or federal agency, the court may pay for the space and the regular monthly utility bills out of the general fund of the county by warrants as in the payment of other obligations of the county. (V.A.C.S. Art. 2372e-1, Sec. 1; Art. 2372e-2, Sec. 1.)

CHAPTER 273. ACQUISITION OF PROPERTY FOR PUBLIC PURPOSES BY MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

- Sec. 273.001. ACQUISITION OF PROPERTY; EXERCISE OF POLICE POWER
- Sec. 273.002. CONDEMNATION
- Sec. 273.003. NECESSARY ALTERATIONS
- Sec. 273.004. CONTROL BY A MUNICIPALITY WITHIN ITS CORPORATE LIMITS
- Sec. 273.005. MAINTENANCE, IMPROVEMENT, AND OPERATION OF PROPERTY
- Sec. 273.006. WARRANTS AND BONDS
- Sec. 273.007. USE; CHARGE FOR USE
- Sec. 273.008. SPECIAL TAX
- Sec. 273.009. CUMULATIVE OF MUNICIPAL CHARTER PROVISIONS

CHAPTER 273. ACQUISITION OF PROPERTY FOR PUBLIC PURPOSES BY MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

Sec. 273.001. ACQUISITION OF PROPERTY; EXERCISE OF POLICE POWER. (a) A municipality may, in accordance with this chapter, acquire property separately or jointly with another municipality or other governmental entity by gift, dedication, or purchase, with or without condemnation.

(b) The property must be located within the county where the municipality or other governmental entity is located. The property may be located inside or outside the corporate limits of the municipality.

(c) The property must be used for the following public purposes:

- (1) parks and playgrounds;
- (2) hospitals;
- (3) the extension, improvement, and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, watersheds, and dams;
- (4) the laying, building, maintenance, and construction of water mains;
- (5) the laying, erection, establishment, and maintenance of necessary appurtenances or facilities that will furnish to the inhabitants of the municipality an abundant supply of wholesome water;
- (6) sewage plants and systems;
- (7) rights of way for water and sewer lines;
- (8) airports and landing fields;

- (9) incinerators and garbage disposal plants;
- (10) streets, boulevards, alleys, or other public ways; or
- (11) a right of way needed in connection with property used for any of these purposes.

(d) The municipality may exercise police power within an area acquired under this section. (V.A.C.S. Art. 969b, Sec. 1 (part).)

Sec. 273.002. CONDEMNATION. Condemnation of property under this chapter shall be in accordance with state law relating to eminent domain, which may be Chapter 21, Property Code, or any other state law governing and relating to the condemnation of land for public purposes by a municipality. (V.A.C.S. Art. 969b, Sec. 1 (part).)

Sec. 273.003. NECESSARY ALTERATIONS. (a) If, in acting under this chapter, it is necessary for a municipality or other governmental entity to exercise the power of eminent domain, a police power, or any other power in order to make an alteration, including relocating, raising, lowering, rerouting, changing the grade, or altering the construction of a railroad, electric transmission, telegraph or telephone line, conduit, pole, property or facility, or pipeline outside the corporate limits of municipalities, the alteration shall be made at the sole expense of the municipality or other governmental entity.

(b) In this section, "sole expense" means the actual cost of an alteration made under Subsection (a) and of the provision of a comparable replacement without enhancement of the facility, after deducting the net salvage value derived from the old facility. (V.A.C.S. Art. 969b, Sec. 1 (part).)

Sec. 273.004. CONTROL BY A MUNICIPALITY WITHIN ITS CORPORATE LIMITS. This chapter does not affect the existing lawful rights of a municipality to control the streets, alleys, public ways, and other public grounds within its corporate limits. (V.A.C.S. Art. 969b, Sec. 1 (part).)

Sec. 273.005. MAINTENANCE, IMPROVEMENT, AND OPERATION OF PROPERTY. (a) A municipality, or a municipality and another governmental entity, that acquires property under this chapter may maintain, improve, operate, sell, and lease the property, and the improvements on the property.

(b) If the property is owned by two or more governmental entities, the entities may jointly manage, control, and operate the property by entering into a mutually agreeable contract. (V.A.C.S. Art. 969b, Secs. 2, 4 (part).)

Sec. 273.006. WARRANTS AND BONDS. The governing body of a municipality or the commissioners court of a county for the purpose of purchasing or condemning property under this chapter, and improving or equipping the property, may issue negotiable warrants and bonds of the municipality or of the county and levy taxes to provide for the interest and sinking funds of the warrants and bonds. (V.A.C.S. Art. 969b, Sec. 3.)

Sec. 273.007. USE; CHARGE FOR USE. (a) A municipality or other governmental entity acquiring property or making improvements to property under this chapter may make and enforce rules governing the use of the property and improvements as the municipality or other governmental entity may determine by ordinance.

(b) A municipality acquiring property or making improvements to property under this chapter may fix a reasonable charge for the use of the property or improvements as determined by the governing body of the municipality. If the property has been jointly acquired, the charge may be fixed by mutual agreement of the governing body of the municipality and other governmental entity. (V.A.C.S. Art. 969b, Sec. 4 (part).)

Sec. 273.008. SPECIAL TAX. (a) The governing body of a municipality and the commissioners court of a county may levy and collect a special tax for the purpose of improving, operating, maintaining, and conducting the property the municipality or county

acquires under this chapter and for providing all suitable structures and facilities on that property.

(b) This special tax is in addition to and exclusive of a tax that may be levied for the interest and sinking fund of a bond issued under this chapter.

(c) A municipality acquiring property under this section may contract and expend its public funds in the joint or several operation and maintenance of a municipal function authorized by this chapter. (V.A.C.S. Art. 969b, Secs. 5, 6.)

Sec. 273.009. CUMULATIVE OF MUNICIPAL CHARTER PROVISIONS. This chapter is cumulative of municipal charter provisions relating to the same subject. (V.A.C.S. Art. 969b, Sec. 7.)

[Chapters 274–279 reserved for expansion]

CHAPTER 280. MISCELLANEOUS PROVISIONS AFFECTING ACQUISITION,
SALE, OR LEASE OF PROPERTY BY MUNICIPALITIES AND COUNTIES

Sec. 280.001. LAND FOR USE OF UNITED STATES

CHAPTER 280. MISCELLANEOUS PROVISIONS AFFECTING ACQUISITION,
SALE, OR LEASE OF PROPERTY BY MUNICIPALITIES AND COUNTIES

Sec. 280.001. LAND FOR USE OF UNITED STATES. (a) A municipality or county, separately or jointly, may acquire land for the use of the United States government, either by a lease for a term of years or in fee simple title.

(b) Land acquired under this section by a county must be located within the county. Land acquired under this section by a municipality must be located within the county in which the municipality is located.

(c) For the purpose of acquiring land under this section, a municipality or county may appropriate any available funds and issue time warrants in payment. If time warrants are issued, the provisions of Chapter 252, Subchapter C of Chapter 262, and the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes) shall be followed to the extent applicable.

(d) For the purpose of acquiring land under this section, a municipality or county may condemn land. The condemnation may be for any period of years or in fee simple title. Condemnation may be in the name of the municipality or county.

(e) Prior to the filing of a petition for condemnation, the commissioners court of the county or the governing body of the municipality shall estimate an amount of money to be the just compensation for the interest in the land taken, and the petition shall state that amount.

(f) Immediately after filing a condemnation suit, the municipality or county may take possession of the land by depositing with the county clerk the amount of money estimated. After a hearing as provided by law, if the special commissioners appointed under the condemnation statutes find the just compensation to be greater than the amount fixed by the commissioners court or governing body, an additional amount shall be deposited with the county clerk by the taking authority to equal the amount found by the special commissioners.

(g) After the date of the taking, which is the date of the deposit of the money estimated by the commissioners court or governing body or the date of deposit of the amount fixed by the special commissioners if the taking is not desired until after the special commissioners have acted, the municipality or county may transfer the interest acquired by the taking to the United States government.

(h) A municipality or county may contract with the United States government obligating itself to acquire a lease-hold interest or fee simple title in land as authorized by this section. (V.A.C.S. Art. 5248e, Secs. 1, 2, 3, 4.)

TITLE 9. PUBLIC BUILDINGS

SUBTITLE A. MUNICIPAL PUBLIC BUILDINGS

CHAPTER 281. MUNICIPAL CIVIC CENTER AUTHORITIES

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- Sec. 281.001. SHORT TITLE
- Sec. 281.002. DEFINITIONS

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SUBCHAPTER E. REVENUE BONDS

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- Sec. 281.079. PAID BONDS AND COUPONS

[Sections 281.080–281.090 reserved for expansion]

SUBCHAPTER F. CONTRACTS WITH CIVIC CENTER AUTHORITIES

- Sec. 281.091. AUTHORIZATION; PURPOSES
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TITLE 9. PUBLIC BUILDINGS

SUBTITLE A. MUNICIPAL PUBLIC BUILDINGS

CHAPTER 281. MUNICIPAL CIVIC CENTER AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 281.001. SHORT TITLE. This chapter may be cited as the Civic Center Authority Act. (V.A.C.S. Art. 1269j–4.5, Sec. 1.)
- Sec. 281.002. DEFINITIONS. In this chapter:
 - (1) “Authority” means a civic center authority created under this chapter.
 - (2) “Board” means the board of directors of a civic center authority. (V.A.C.S. Art. 1269j–4.5, Sec. 2 (part).)

[Sections 281.003–281.010 reserved for expansion]

SUBCHAPTER B. CREATION OF AUTHORITIES

- Sec. 281.011. CHARACTERISTICS. (a) An authority is a governmental agency, a body politic and corporate, and a political subdivision of the state.
 - (b) An authority may not impose taxes. (V.A.C.S. Art. 1269j–4.5, Secs. 3, 4, 28 (part).)
- Sec. 281.012. COMPOSITION. (a) An authority may include the area of any county or part of a county, including municipalities and other political subdivisions.
 - (b) An authority may consist of noncontiguous tracts. (V.A.C.S. Art. 1269j–4.5, Sec. 5.)
- Sec. 281.013. PETITION. (a) To create an authority, a petition requesting the creation must be filed with the county judge of the county in which the proposed authority is located. The petition must be accompanied by a deposit of \$200.
 - (b) The deposit is to cover the costs of the notice required by Section 281.014(c). If the deposit exceeds the cost of the notice, the difference shall be refunded.
 - (c) The petition must include:
 - (1) the signatures of a majority of the members of the governing body in each of two or more municipalities;
 - (2) a description of the boundaries of the proposed authority;
 - (3) the names of the persons recommended for the first board of directors;
 - (4) a statement of the desirability of or need for the creation of the authority; and
 - (5) the name of the proposed authority.
 - (d) The boundaries of the proposed authority may be described in the petition by:
 - (1) metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;

(2) natural or artificial boundaries or survey lines; or

(3) if the proposed authority is composed entirely of municipalities, a statement that the authority is composed entirely of municipalities and a list of the municipalities in the proposed authority.

(e) The name of the proposed authority must consist of a word or phrase generally descriptive of the locale of the authority followed by the words "Civic Center Authority." The name may not be the same as the name of another authority in the same county.

(f) A copy of the petition shall be recorded in the county deed records. (V.A.C.S. Art. 1269j-4.5, Secs. 6(a) (part), (b).)

Sec. 281.014. NOTICE. (a) When a petition is filed with the county judge, the judge shall set a date, time, and place for a hearing on the petition by the judge.

(b) The date of the hearing must be within 20 days after the date the petition is filed.

(c) The county judge shall issue a notice of the date, time, and place of the hearing that informs all persons of their right to appear and contest the form and allegations of the petition and the desirability of or need for the creation of the proposed authority. Before the 10th day before the date of the hearing, the notice must be published at least one time in a newspaper having general circulation in the county. (V.A.C.S. Art. 1269j-4.5, Secs. 7(a), (b).)

Sec. 281.015. HEARING. (a) At the hearing, the county judge shall examine the petition to determine its sufficiency. The county judge may determine all issues raised regarding the sufficiency of the petition and the creation of the authority and may enter orders incidental to the issues.

(b) Any interested person may appear at the hearing, in person or by attorney, and offer testimony regarding the sufficiency of the petition and whether the creation of the authority is desirable or necessary.

(c) The county judge may adjourn the hearing from day to day. (V.A.C.S. Art. 1269j-4.5, Sec. 7(c).)

Sec. 281.016. FINAL ORDER AND APPEAL. (a) The county judge shall grant the petition if the judge finds that the petition conforms to the requirements of Section 281.013 and that the creation of the authority is desirable or necessary. The judge by order shall declare the findings.

(b) If the county judge finds that the authority is neither desirable nor necessary, the judge by order shall deny the petition.

(c) Within 30 days after the date of the entry of the order, any person who signed the petition or who testified at the hearing may appeal the order to an appropriate district court. (V.A.C.S. Art. 1269j-4.5, Secs. 7(d), (e).)

[Sections 281.017-281.020 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 281.021. BOARD OF DIRECTORS. (a) An authority must be governed by a board of directors composed of 5, 7, 9, or 11 directors.

(b) A majority of the directors constitute a quorum and a concurrence of the majority is sufficient in all matters relating to the business of the authority. (V.A.C.S. Art. 1269j-4.5, Secs. 6(a) (part), 8, 13 (part).)

Sec. 281.022. QUALIFICATIONS. A director must be at least 18 years old and a citizen of the state residing within the boundaries of the authority. (V.A.C.S. Art. 1269j-4.5, Sec. 9.)

Sec. 281.023. TERMS OF OFFICE; APPOINTMENTS; VACANCIES. (a) Each director is appointed for a term of office of two years.

(b) The term of office of the first board begins on the date the authority is created. The county judge shall appoint successor directors with the advice and consent of, and from among persons recommended by, all the municipalities within the authority that contract with the authority under this chapter.

(c) If a vacancy occurs on the board or in any office on the board, the board shall appoint a person to fill the vacancy for the unexpired term. However, if the number of directors at any time is less than a majority of the positions on the board because of the failure or refusal of one or more directors to qualify to serve, the death or incapacitation of one or more directors, or any other reason, on the petition of a resident of the authority the county judge shall appoint persons to fill the vacancies. (V.A.C.S. Art. 1269j-4.5, Secs. 10, 11, 22 (part).)

Sec. 281.024. BOND; OATHS OF OFFICE. (a) As soon as practicable after a director is appointed, the director shall execute a bond that is:

- (1) in the amount of \$5,000;
- (2) payable to the authority; and
- (3) conditioned that the director will faithfully perform the director's duties.

(b) Each director shall take the oath of office prescribed by the constitution and a written oath that the director will not have an interest, directly or indirectly, in a contract with, or claim against, the authority except for a contract or claim expressly authorized by law or a warrant issued to the director as a fee of office.

(c) After a petition for the creation of an authority is granted, the first members of the board must execute their bonds and take the oaths. After the bonds are executed and the oaths are taken, the board shall meet and organize.

(d) The bond of a director on the first board must be approved by the county judge. The bond of a subsequent director must be approved by the board.

(e) The bonds and oaths required by this section must be filed with the authority and the authority shall keep the bonds and oaths in its records. (V.A.C.S. Art. 1269j-4.5, Secs. 19, 20.)

Sec. 281.025. OFFICERS. (a) After executing the bonds and taking the oaths, the directors shall elect a president, vice-president, secretary, and any other officers the board considers necessary.

(b) The president is the chief executive officer of the authority and shall preside at each meeting of the board.

(c) The vice-president shall act as president if the president is absent or disabled. The secretary shall act as president if both the president and the vice-president are absent or disabled.

(d) The secretary shall provide for the proper keeping of the books and records of the authority. The board may appoint a director, the general manager, or any other employee as assistant or deputy secretary to assist the secretary, and that person may certify the authenticity of any record of the authority.

(e) A director of a state or national bank may serve as the authority's treasurer.

(f) The treasurer shall execute a bond, in an amount set by the board, conditioned that the treasurer will faithfully account for all money of which the treasurer assumes custody in the capacity of treasurer. (V.A.C.S. Art. 1269j-4.5, Secs. 12, 13 (part).)

Sec. 281.026. BYLAWS. The board may adopt bylaws to govern:

- (1) the time and place of its meetings;
- (2) the manner of conducting its meetings;
- (3) the powers, duties, and responsibilities of its officers and employees;
- (4) the disbursement of funds by checks, drafts, and warrants;
- (5) the appointment and authority of director committees;
- (6) the keeping of records and accounts; and
- (7) other matters that the board considers appropriate. (V.A.C.S. Art. 1269j-4.5, Sec. 14.)

Sec. 281.027. OFFICE AND MEETING PLACE. (a) The board shall designate, establish, and maintain an office and meeting place within the authority. The board may also establish a meeting place outside the authority.

(b) If the board establishes a meeting place outside the authority or changes the location of a meeting place established outside the authority, it shall file with the county clerk a copy of the order establishing or relocating the meeting place and shall publish the location in a newspaper of general circulation in the county in which the authority is located. (V.A.C.S. Art. 1269j-4.5, Sec. 16.)

Sec. 281.028. MEETINGS; NOTICE. (a) The board shall hold regular meetings to conduct authority business and may hold special meetings as required by authority business.

(b) The board shall hold its meetings in one of its designated meeting places.

(c) Any interested person may attend any meeting of the board. (V.A.C.S. Art. 1269j-4.5, Sec. 15 (part).)

Sec. 281.029. FEES OF OFFICE. A director is entitled to receive fees of office of not more than \$25 a day for each day of service necessary to the discharge of the director's duties, but may not receive more than \$100 for any calendar month regardless of the number of days of service during that month. (V.A.C.S. Art. 1269j-4.5, Sec. 17.)

[Sections 281.030–281.040 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Sec. 281.041. ORGANIZATIONAL EXPENSES. The board may pay costs necessarily incurred in the creation and organization of the authority, including the cost of investigating and making plans, an engineer's or architect's report, and other incidental expenses, and may reimburse any person for money advanced for those purposes. The payments may be made from money obtained from the sale of the first bonds issued by the authority. (V.A.C.S. Art. 1269j-4.5, Sec. 43.)

Sec. 281.042. MANAGEMENT. The board shall control and manage the affairs of the authority. (V.A.C.S. Art. 1269j-4.5, Sec. 23 (part).)

Sec. 281.043. EMPLOYEES. (a) The board shall employ persons the board considers necessary to conduct the affairs of the authority, including engineers, attorneys, financial advisors, a general manager, bookkeepers, auditors, and secretaries. The board shall determine the term of office and compensation of the employees.

(b) A director may be employed as the general manager of the authority and is entitled to receive compensation in an amount fixed by the other directors. A director employed as general manager shall continue to perform the duties of director. If the general manager is not a director, the general manager shall execute a fidelity bond payable to the authority in the amount of \$5,000, conditioned that the person will faithfully perform the duties of general manager.

(c) The board may remove an employee.

(d) The board may require an employee to execute a bond payable to the authority that is conditioned that the person will faithfully perform the duties of the employee. (V.A.C.S. Art. 1269j-4.5, Secs. 18, 23 (part).)

Sec. 281.044. FACILITIES. (a) An authority may establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain all or a designated part of:

(1) a public improvement such as a civic center, civic center building, auditorium, opera house, music hall, exhibition hall, coliseum, museum, library, recreational building or facility, or other public building or related facility; or

(2) a structure, parking area, or facility located at or in the immediate vicinity of the public improvement and to be used in connection with the public improvement for off-street parking or storage of motor vehicles or other conveyances.

(b) A lease made under Subsection (a) may contain any terms the board considers appropriate. (V.A.C.S. Art. 1269j-4.5, Secs. 2 (part), 21.)

Sec. 281.045. DURATION OF CERTAIN LEASES. If an authority leases to or from any person all or part of any facilities constructed or acquired, or to be constructed or

acquired, by the authority, the lease may not be for a term longer than 40 years. (V.A.C.S. Art. 1269j-4.5, Sec. 36.)

Sec. 281.046. **CONTRACTS.** (a) An authority contracts in the name of the authority.

(b) An authority may contract with the United States, this state, or a political subdivision or governmental agency of the United States or this state, for furnishing all or a part of the authority's services or facilities or for the joint ownership and operation of facilities, improvements, or equipment necessary to accomplish a purpose permitted by the authority.

(c) An authority may contract with any person in the performance of a purpose permitted by the authority. The contract must be on terms the board considers desirable, fair, and advantageous and may not be for a term longer than 40 years.

(d) A director with a financial interest in a contract shall disclose the interest to the other directors and may not vote on the acceptance of the contract or participate in discussion on the contract. If a director fails to disclose his interest in a contract, the contract is invalid.

(e) If, after a contract is awarded, an authority decides 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 if the increase in the total cost of the contract is not greater than 25 percent. (V.A.C.S. Art. 1269j-4.5, Secs. 27, 29, 37, 39.)

Sec. 281.047. **CONTRACTS OVER \$10,000.** (a) This section applies to a contract that is for materials for, or construction of, facilities and that is for an amount greater than \$10,000.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of the opening of the sealed bids. The board shall publish the notice once a week for two consecutive weeks in one or more newspapers published in the county. The first publication must be before the 14th day before the date the sealed bids are opened.

(c) A contract under this section may cover all facilities of the authority, or the various elements of the facilities may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the facilities will be constructed in stages over a period of years.

(d) A contract may provide for payment of a total sum that is the completed cost of the facilities or may be based on bids to cover the cost of units of the various elements entering into the work as estimated by the authority's architects or engineers, or a contract may be let and awarded in any other form and to any responsible person that, in the board's judgment, will be most advantageous to the authority and result in the best and most economical completion of the authority's proposed facilities. (V.A.C.S. Art. 1269j-4.5, Sec. 38.)

Sec. 281.048. **CONSTRUCTION BIDS; CONTRACTS; BONDS.** (a) To bid on proposed construction work, a person must submit to the board a written sealed bid and a certified or cashier's check drawn 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) The board shall open all the bids at the same time. The board may reject any or all bids.

(c) If the chosen bidder fails or refuses to enter into a proper contract with the authority or to furnish the bond required by Subsection (e), the bidder forfeits the amount of the check or bond that accompanied the bid.

(d) A contract for construction work must be in writing and signed by the board and the contractor. The authority shall keep the contract in its records and make the contract available for public inspection.

(e) A person to whom a contract is let must execute good and sufficient performance and payment bonds in accordance with Article 5160, Revised Statutes. (V.A.C.S. Art. 1269j-4.5, Secs. 40, 41, 42.)

Sec. 281.049. **FEES; RULES.** (a) An authority may adopt and enforce necessary charges, fees, or rentals for providing facilities or services.

(b) An authority may adopt and enforce reasonable rules relating to its facilities. (V.A.C.S. Art. 1269j-4.5, Secs. 30, 31.)

Sec. 281.050. ACQUISITION OF LAND AND OTHER PROPERTY. (a) An authority may acquire land, materials, easements, rights-of-way, or other property considered necessary, incidental, or helpful to the accomplishment of a purpose stated in Section 281.044, including property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the authority's facilities. An authority may acquire the property by gift, grant, purchase, or condemnation.

(b) An authority may acquire fee simple title to, or an easement on, public or private land located in or out of the authority's boundaries. An authority may acquire title to, or an easement on, property that is not held in fee.

(c) An authority may lease property on terms the board considers advantageous to the authority. (V.A.C.S. Art. 1269j-4.5, Sec. 32.)

Sec. 281.051. EMINENT DOMAIN. (a) An authority may acquire land, easements, or other property within its boundaries by condemnation. The authority may condemn the fee simple title or an easement. The board shall institute condemnation proceedings in the name of the authority and shall direct the proceedings.

(b) The manner in which an authority exercises the right of eminent domain is governed by Chapter 21, Property Code. (V.A.C.S. Art. 1269j-4.5, Sec. 33 (part).)

Sec. 281.052. SUITS. An authority may, through its directors, sue and be sued in any court of this state in the name of the authority. Service of process may be made by serving three directors. Courts of this state shall take judicial notice of the establishment of an authority. (V.A.C.S. Art. 1269j-4.5, Sec. 28 (part).)

Sec. 281.053. COSTS, DEPOSITS, AND APPEAL BONDS. An authority is not required to give bond for appeal or for costs, or to deposit double the amount of an award, in a condemnation suit or other suit to which it is a party. (V.A.C.S. Art. 1269j-4.5, Sec. 33 (part).)

Sec. 281.054. COSTS OF RELOCATION. If the relocating, raising, rerouting, changing the grade, or altering the construction of a highway, railroad, electric transmission line, pipeline, or telephone or telegraph property is required by the authority's exercise of the power of eminent domain, power of relocation, or any other power, the required action shall be taken at the sole expense of the authority. "Sole expense" means the actual costs of the required action and of the provision of a comparable replacement that does not enhance the facility after deducting the net salvage value derived from the old facility. (V.A.C.S. Art. 1269j-4.5, Sec. 34.)

Sec. 281.055. SURPLUS PROPERTY. (a) The board may order the sale of land or other property owned by the authority that the authority does not need. The sale may be public or private.

(b) Property owned by the authority that the authority does not need may be exchanged for other property. (V.A.C.S. Art. 1269j-4.5, Sec. 35.)

Sec. 281.056. ADDITION OF MUNICIPALITIES. (a) To add a municipality to the authority, a petition signed by a majority of the members of the governing body of the municipality must be filed with the board.

(b) If the board determines that the addition of the municipality to the authority is desirable or necessary, the board shall enter an order adding the municipality to the authority and shall file a copy of the order in the county deed records. (V.A.C.S. Art. 1269j-4.5, Sec. 22 (part).)

Sec. 281.057. DESTRUCTION OF RECORDS. (a) The original minutes and orders of the board, the construction contracts and related instruments of the authority, and the bonds of the authority's directors, officers, and employees shall be kept in a safe place and maintained as permanent records of the authority.

(b) An authority's records may be destroyed when the board determines that they are no longer needed or useful, except for records covered by Subsection (c). The board shall designate one or more persons to destroy the records and the manner of destruction. If

the board considers it advisable, the records may be inventoried and microfilmed before they are destroyed.

(c) Minutes, orders, and resolutions of the board may not be destroyed. Records necessary for the authority's annual audits and for compliance with the term of its bond resolutions shall be kept for at least one year after the expiration of the next succeeding fiscal year. An authority contract other than a construction contract and related records shall be kept for at least four years after the performance of the contract. (V.A.C.S. Art. 1269j-4.5, Sec. 26.)

Sec. 281.058. SURETY BOND PREMIUMS. The board may pay the premiums on surety bonds required of officials or employees of the authority out of available funds of the authority, including proceeds from the sale of bonds. (V.A.C.S. Art. 1269j-4.5, Sec. 44.)

Sec. 281.059. DEPOSITORY. The board shall designate by order or resolution one or more banks in or out of the authority's boundaries to serve as the depository for the authority's funds. All funds of the authority shall be deposited in its depository unless an order or resolution authorizing the issuance of the authority's bonds requires a different disposition. To the extent that funds in a depository bank are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided for the security of county funds. (V.A.C.S. Art. 1269j-4.5, Sec. 45.)

Sec. 281.060. INVESTMENTS. The board may invest and reinvest authority funds in direct or indirect obligations of the United States, an agency of the United States, the State of Texas, or a county, municipality, school district, or other political subdivision of the state. Funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations in the state if the certificates of deposit are secured in the manner provided for the security of county funds. (V.A.C.S. Art. 1269j-4.5, Sec. 46.)

Sec. 281.061. FISCAL YEAR; AUDIT. (a) The fiscal year of an authority is a calendar year, unless it is changed by the board.

(b) An authority shall keep a complete system of accounts. An independent certified public accountant or a firm of independent certified public accountants shall prepare an audit of an authority's affairs each year. A signed copy of the audit report shall be delivered to each member of the board within 120 days after the last day of the fiscal year. A copy of the audit shall be kept on file at the authority office and, as a public record, is open for inspection by any interested person during normal office hours. (V.A.C.S. Art. 1269j-4.5, Sec. 47.)

Sec. 281.062. SUPPLIES; SEAL. (a) The board may purchase materials, supplies, equipment, vehicles, and machinery needed by the authority.

(b) The board shall adopt a seal for the authority. (V.A.C.S. Art. 1269j-4.5, Secs. 24, 25.)

[Sections 281.063-281.070 reserved for expansion]

SUBCHAPTER E. REVENUE BONDS

Sec. 281.071. ISSUANCE OF BONDS. (a) An authority may issue revenue bonds for any purpose set forth in Subchapters A through E when the issuance is authorized by a resolution adopted by the board. The bonds must be secured by a pledge of, and be payable from, all or a designated part of the authority's revenues from its facilities or any other source, including contract and lease proceeds.

(b) The bonds may mature serially or in any other manner. The bonds may not mature later than 40 years after the date of the bonds.

(c) The bonds shall bear interest at a rate that does not exceed the maximum interest rate authorized by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

(d) The bonds and the appurtenant interest coupons, if any, are investment securities under Chapter 8, Business & Commerce Code.

(e) As provided by the board, the bonds and interest coupons:

- (1) may be issued registrable as to principal or as to both principal and interest; and
- (2) may be made redeemable before maturity, at the option of the board, or may contain a mandatory redemption provision.

(f) In the resolution authorizing the issuance of the bonds, the board shall designate the form and denominations of the bonds; the manner, terms, conditions, and details of issuance; and the manner of signing and executing the bonds. (V.A.C.S. Art. 1269j-4.5, Sec. 48.)

Sec. 281.072. **ADDITIONAL SECURITY.** (a) At the board's discretion, the bonds of an authority may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the authority, and franchises, easements, leases, and contracts and rights relating to those properties. The trustee may operate the properties, sell the properties for payment of the bonds or interest on the bonds, and exercise all other powers and authority for the further security of the bonds.

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

- (1) contain provisions prescribed by the board for the security of the bonds and as preservation of the trust estate and for the modification or amendment of those provisions;
- (2) condition the right to spend authority money or sell authority property on the approval of a registered professional engineer or architect and provide for the manner of selecting the engineer or architect; and
- (3) provide for the investment of funds of the authority.

(c) A purchaser under a sale under a deed of trust or mortgage lien is the absolute owner of the properties, facilities, and rights purchased and may maintain and operate the properties. (V.A.C.S. Art. 1269j-4.5, Sec. 49.)

Sec. 281.073. **BOND PROVISIONS.** (a) In a resolution authorizing the issuance of bonds under this chapter, including refunding bonds, the board may:

- (1) provide for the flow of funds and the establishment and maintenance of interest and sinking funds, reserve funds, and other funds;
- (2) make additional covenants that the board considers appropriate with respect to the bonds, the pledged revenues, and the operation and maintenance of the facilities of which the revenues are pledged, including provisions for the operation or leasing of the facilities and the use or pledge of money derived from the operation of the facilities, contracts, and leases;
- (3) prohibit the further issuance of bonds or other obligations payable from the pledged revenues;
- (4) reserve the right to issue, on conditions set forth in the resolution, additional bonds to be secured by a pledge of, and payable from, the revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued; and
- (5) state other provisions and covenants that are not prohibited by the constitution of this state or by this chapter.

(b) The board may adopt and provide for any other proceeding or instrument necessary or convenient in the issuance of authority bonds. (V.A.C.S. Art. 1269j-4.5, Sec. 50.)

Sec. 281.074. **SALE OF BONDS.** After bonds are issued, the board shall sell the bonds on the best terms and for the best possible price. (V.A.C.S. Art. 1269j-4.5, Sec. 52.)

Sec. 281.075. **APPROVAL; REGISTRATION.** (a) An authority shall submit the bonds it issues to the attorney general for examination. If the attorney general finds that the bonds are authorized in accordance with law, the attorney general shall approve the bonds and the comptroller of public accounts shall register them.

(b) Bonds that are approved and registered under Subsection (a) are incontestable in a court or other forum and are valid and binding obligations in accordance with their terms.

(c) If the bonds recite that the security for the bonds includes a pledge of the proceeds of a contract or a lease to which the authority is a party, a copy of the contract or lease and of the proceedings authorizing the contract or lease may be submitted to the attorney general with the bond records. If a contract or lease and a record of the corresponding proceedings is submitted to the attorney general, the approval of the bonds by the attorney general is also an approval of the contract or lease and the contract or lease is incontestable. (V.A.C.S. Art. 1269j-4.5, Sec. 53.)

Sec. 281.076. BOND PROCEEDS. The board may appropriate or set aside from the proceeds from the sale of bonds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction as provided in the bond resolutions, and expenses incurred and that will be incurred in the issuance, sale, and delivery of the bonds. (V.A.C.S. Art. 1269j-4.5, Sec. 51.)

Sec. 281.077. REFUND OF BONDS. (a) By resolutions adopted by the board, an authority may issue bonds to refund all or any outstanding bonds, including matured but unpaid interest coupons. Refunding bonds may mature serially or in any other manner. The bonds may not mature later than 40 years after the date of the bonds. The bonds shall bear interest at a rate that does not exceed the maximum interest rate authorized by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

(b) Refunding bonds may be sold in accordance with Subsection (c) or they may be made payable from the same source as the bonds being refunded or from any additional source. The bonds must be approved by the attorney general in the same manner as original bonds and must be registered by the comptroller of public accounts on the surrender and cancellation of the bonds to be refunded.

(c) The resolution authorizing the issuance of refunding bonds may provide that the bonds be sold and the proceeds deposited where the underlying bonds are payable. If the amount deposited is sufficient to pay the interest and principal on the underlying bonds to their maturity dates, or to their option dates if the bonds have been called for payment before maturity, the authority may issue the refunding bonds before the cancellation of the bonds being refunded, and the comptroller of public accounts shall register the bonds without the surrender and cancellation of the underlying bonds.

(d) Refunding may be accomplished in one or more installment deliveries. Refunding bonds and the appurtenant interest coupons are investment securities under Chapter 8, Business & Commerce Code, and must be issued as provided in this chapter.

(e) In lieu of the method set forth in this section, an authority may refund bonds as provided by general law. (V.A.C.S. Art. 1269j-4.5, Sec. 54.)

Sec. 281.078. BONDS AS INVESTMENTS; SECURITY. (a) Bonds issued by an authority are legal and authorized investments for a bank, a trust company, a savings and loan association, an insurance company, a fiduciary, or a trustee and for interest or sinking funds or other public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic.

(b) Bonds issued by an authority may be security for deposits of public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic, to the extent of the market value of the bonds and appurtenant unmatured interest coupons. (V.A.C.S. Art. 1269j-4.5, Sec. 55.)

Sec. 281.079. PAID BONDS AND COUPONS. When a bond, interest coupon, note, or warrant of the authority is paid, it shall be delivered to the authority or destroyed. If a bond, coupon, note, or warrant is destroyed, evidence of the destruction shall be furnished to the board. (V.A.C.S. Art. 1269j-4.5, Sec. 56.)

[Sections 281.080–281.090 reserved for expansion]

SUBCHAPTER F. CONTRACTS WITH CIVIC CENTER AUTHORITIES

Sec. 281.091. AUTHORIZATION; PURPOSES. On terms a municipality considers desirable, fair, and advantageous and with the approval of a majority of the governing

body, a municipality may make a contract with a civic center authority under which the authority, for the benefit of the municipality, exercises its authority under Section 281.044. Under the contract, the authority may provide to the municipality all or part of its authorized services and facilities, in or out of the municipality's boundaries. The term of the contract may not be longer than 40 years. (V.A.C.S. Art. 1269j-4.6, Sec. 2.)

Sec. 281.092. PAYMENTS. (a) A municipality shall pay the amounts prescribed by the contract from any available funds, including property taxes.

(b) To pledge property taxes as part or all of the required payments under the contract, before it enters into a contract with an authority a municipality must obtain voter approval at an election conducted substantially according to the applicable procedures in Chapter 1, Title 22, Revised Statutes. Each qualified voter in the municipality is entitled to vote in the election. If the voters authorize the payments from property taxes, the contract may provide that the payments are payable from and are obligations against only the taxing power of the municipality or may provide that the payments are payable from taxes and other funds and revenues specified in the contract. After the election and concurrently with, or prior to, making the contract, the municipality shall provide for the annual assessment and collection of an amount that is sufficient to make the contract payments and to create a sinking fund of at least two percent.

(c) An authority or a holder of authority bonds may not demand payment of the municipality's obligation out of funds raised by taxation if the municipality has not complied with Subsection (b). (V.A.C.S. Art. 1269j-4.6, Secs. 3, 4.)

Sec. 281.093. CONFLICT WITH MUNICIPAL CHARTER. If this subchapter conflicts with the charter of a home-rule municipality contracting under this subchapter, this subchapter controls. (V.A.C.S. Art. 1269j-4.6, Sec. 5 (part).)

[Chapters 282-290 reserved for expansion]

SUBTITLE B. COUNTY PUBLIC BUILDINGS

CHAPTER 291. GENERAL BUILDING PROVISIONS AFFECTING COUNTIES

- Sec. 291.001. PROVIDING AND MAINTAINING COUNTY BUILDINGS
- Sec. 291.002. OFFICES AT COUNTY SEAT
- Sec. 291.003. CONTROL OF COURTHOUSE
- Sec. 291.004. PROVISION OF OFFICES, SUPPLIES, AND COURTROOMS TO CERTAIN JUSTICES OF THE PEACE
- Sec. 291.005. MAINTENANCE EMPLOYEES IN COUNTIES WITH POPULATION OF MORE THAN 500,000
- Sec. 291.006. PRIVATE BUSINESS ON PUBLIC PROPERTY

SUBTITLE B. COUNTY PUBLIC BUILDINGS

CHAPTER 291. GENERAL BUILDING PROVISIONS AFFECTING COUNTIES

Sec. 291.001. PROVIDING AND MAINTAINING COUNTY BUILDINGS. The commissioners court of a county shall:

(1) provide, as soon as practicable after a county seat is established or moved, a courthouse and offices for county officers at the county seat;

(2) provide other necessary public buildings; and

(3) maintain the courthouse, offices, and other public buildings. (V.A.C.S. Art. 1603; Art. 2351, Subdiv. 7, as amended by Ch. 1, Acts of the 69th Leg., 1st C.S., 1985.)

Sec. 291.002. OFFICES AT COUNTY SEAT. The county judge, sheriff, clerks of the district and county courts, county treasurer, tax assessor-collector, county surveyor, and county attorney shall keep their offices at the county seat. (V.A.C.S. Art. 1605, Sec. (a) (part).)

Sec. 291.003. CONTROL OF COURTHOUSE. The county sheriff shall have charge and control of the county courthouse, subject to the regulations of the commissioners court. (V.A.C.S. Art. 6872.)

Sec. 291.004. PROVISION OF OFFICES, SUPPLIES, AND COURTROOMS TO CERTAIN JUSTICES OF THE PEACE. (a) If requested by a justice of the peace of a county who handles an average of more than 50 cases a month during the 12 months preceding the date of the request, the commissioners court of the county shall furnish the justice of the peace with suitable office space and necessary telephones, equipment, and supplies. The commissioners court shall furnish the items at the beginning of the first fiscal year after the date the request is made. The items are in addition to the compensation and expenses provided for by Subchapter B, Chapter 152.

(b) The commissioners court may also provide a suitable courtroom for each justice of the peace. (V.A.C.S. Art. 3912k, Sec. 1a.)

Sec. 291.005. MAINTENANCE EMPLOYEES IN COUNTIES WITH POPULATION OF MORE THAN 500,000. (a) The commissioners court of a county with a population of more than 500,000 shall direct and control the employees needed to repair, maintain, and operate the county's courthouses and criminal court buildings.

(b) The commissioners court may designate a building superintendent to employ the personnel. Employments are subject to approval by the commissioners court. An employment must:

(1) be in writing and signed by the employee; and

(2) state the nature of the duties to be performed, the period of employment, the hours to be worked, and the amount to be paid.

(c) The employment of a person under this section ends January 1 of each year but may be renewed from year to year. The commissioners court may discharge the employee at any time for cause.

(d) The number of employees appointed under this section is subject to the approval of the county auditor.

(e) Regardless of Subsections (a)-(d), the sheriff is responsible for employing and discharging, as provided by other law, the employees engaged in the operation of county jails. The employees necessary for the proper conduct of the jails or the safekeeping of prisoners are under the exclusive direction and control of the sheriff. (V.A.C.S. Art. 2351c.)

Sec. 291.006. PRIVATE BUSINESS ON PUBLIC PROPERTY. (a) A county official or an agent, deputy, or employee of a county official may not operate a private business on public property unless the person:

(1) keeps an accurate and detailed record of money that the person receives and disburses;

(2) files with the county auditor or other county auditing authority, on or before January 1 of each year, a report of receipts and disbursements during the previous calendar year; and

(3) makes available to the county auditor all records of the receipts and disbursements.

(b) An amount of money equal to the amount of receipts required to be reported plus any interest paid by a financial institution on deposits of this money, less the amount of disbursements required to be reported, shall be delivered to the county treasurer when the report required by Subsection (a) is filed or in installments at regular intervals during the year as may be prescribed by the county auditor or other county auditing authority. This subsection does not apply to a person acting under or by virtue of a written contract with the county.

(c) If a county official has not complied with this section by February 1 of each year, the county auditor shall notify the county or district attorney of the violation. The county or district attorney shall, and any qualified voter of the county may, file a petition in a district court of the county for a writ of mandamus to compel compliance.

(d) A person who violates this section or falsifies a record or report required by this section commits official misconduct and may be removed under Chapter 87.

(e) This section does not apply to compensation that a justice of the peace or official court reporter receives for performing an act not required by law. (V.A.C.S. Art. 1663b.)

CHAPTER 292. AUXILIARY COUNTY BUILDINGS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 292.001. AUTHORITY FOR BUILDINGS OTHER THAN COURTHOUSE; LEASE TO OTHER PERSONS; LOCATION OF JUSTICE OF PEACE COURT
- Sec. 292.002. FACILITIES OUTSIDE COUNTY SEAT
- Sec. 292.003. FACILITIES IN CERTAIN MUNICIPALITIES OUTSIDE COUNTY SEAT
- Sec. 292.004. FACILITIES WITHIN MUNICIPALITY DESIGNATED AS COUNTY SEAT
- Sec. 292.005. ISSUANCE OF BOAT AND OUTBOARD MOTOR CERTIFICATES AT BRANCH OFFICES

[Sections 292.006–292.020 reserved for expansion]

SUBCHAPTER B. AUXILIARY FACILITIES IN CERTAIN COUNTIES

- Sec. 292.021. FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OF 90,001 TO 225,000
- Sec. 292.022. FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OVER 110,000
- Sec. 292.023. FACILITIES IN COUNTIES WITH POPULATIONS OF 30,000 TO 31,000 AND 54,000 TO 56,000
- Sec. 292.024. TAX ASSESSOR-COLLECTOR FACILITIES IN COUNTIES WITH LARGE CITIES
- Sec. 292.025. FACILITIES IN COUNTIES WITH POPULATIONS OF 25,001 TO 25,049
- Sec. 292.026. TAX ASSESSOR-COLLECTOR FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OVER 70,000
- Sec. 292.027. TAX ASSESSOR-COLLECTOR FACILITIES IN COUNTIES WITH POPULATIONS OF 38,200 TO 39,000
- Sec. 292.028. MAINTENANCE OF CERTAIN TAX OFFICES
- Sec. 292.029. COURT FACILITIES IN COUNTIES WITH POPULATIONS OVER 1.2 MILLION

CHAPTER 292. AUXILIARY COUNTY BUILDINGS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 292.001. AUTHORITY FOR BUILDINGS OTHER THAN COURTHOUSE; LEASE TO OTHER PERSONS; LOCATION OF JUSTICE OF PEACE COURT. (a) The commissioners court of a county may purchase, construct, or provide by other means, or may reconstruct, improve, or equip a building or rooms, other than the courthouse, for the housing of county or district offices, county or district courts, justice of the peace courts, county records or equipment (including voting machines), or county jail facilities, or for the conducting of other public business, if the commissioners court determines that the additional building or rooms are necessary. The commissioners court may purchase and improve the necessary site for the building or rooms. The building or rooms, except a regional jail facility built under Section 4(h), The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes), must be located in the county seat.

(b) The commissioners court may lease or rent to any person any part of the building or rooms that are not necessary for the purposes described by Subsection (a).

(c) A justice of the peace court may not be housed or conducted in a building located outside the court's precinct. (V.A.C.S. Art. 2370, Sec. 1; Art. 2370b, Secs. 1, 2.)

Sec. 292.002. **FACILITIES OUTSIDE COUNTY SEAT.** (a) The commissioners court of a county may provide an office building or a jail facility at a location in the county outside the county seat in the same manner that is applicable to such a building or facility at the county seat. The commissioners court may provide for the building or facility through the issuance of bonds as provided by Chapters 1 and 2, Title 22, Revised Statutes, or through the issuance of other evidences of indebtedness in the same manner as bonds or evidences of indebtedness applicable to a courthouse or jail at the county seat. The commissioners court may provide office space in the building or facility for any county or precinct office except a court required by law to sit at the county seat. However, a county officer who is provided space in the building or facility shall maintain an office at the county seat and shall keep the original records of office at that office.

(b) The commissioners court may authorize places located in the county but outside the municipality designated as the county seat as auxiliary courts for the holding of nonjury court proceedings and may designate those places as auxiliary county seats for this purpose. (V.A.C.S. Art. 1605a-5, Secs. 4, 6(a); Art. 2370b-3, Secs. 1, 2.)

Sec. 292.003. **FACILITIES IN CERTAIN MUNICIPALITIES OUTSIDE COUNTY SEAT.** (a) The commissioners court of a county may provide, maintain, and repair an office building or a jail in a municipality with a population of 15,000 or more, other than the county seat, in the same manner as the court may take those actions at the county seat. The commissioners court may finance those actions through the issuance of bonds as provided by Chapters 1 and 2, Title 22, Revised Statutes, or through the issuance of evidences of indebtedness in the same manner as evidences of indebtedness applicable to a courthouse or jail at the county seat. Taxes may be levied for the bonds or evidences of indebtedness in the same manner and subject to the same limitations applicable to a courthouse or jail at the county seat. The cost of the facility may not exceed two percent of the taxable value of the property in the county in the previous year. The commissioners court has custody of and shall care for the facility.

(b) On provision of a facility under this section, the commissioners court may allow a county officer, except the district clerk, a county or district judge, the county clerk, and the county treasurer, to maintain a branch office and provide deputies in the municipality where the facility is located, in the manner authorized by Sections 292.024, 292.026, and 292.028. The commissioners court may limit the authorization and maintenance of branch offices.

(c) A county officer shall keep the original records of office at the county seat. (V.A.C.S. Art. 1605a, Secs. 1, 2.)

Sec. 292.004. **FACILITIES WITHIN MUNICIPALITY DESIGNATED AS COUNTY SEAT.** (a) The commissioners court of a county may provide, inside the municipality designated as the county seat, an auxiliary courthouse, a jail, a parking garage, a facility for district, county, and precinct administrative and judicial offices and courtrooms, or any facility related to the administration of civil or criminal justice. For the purposes of this section, the municipality designated as the county seat includes territory added to the municipality after it became the county seat but excludes any part of the municipality outside the county.

(b) The commissioners court may:

- (1) acquire a necessary site;
- (2) purchase, construct, equip, or enlarge the facility; and
- (3) repair and maintain the facility.

(c) If the commissioners court designates the facility as an auxiliary courthouse, the facility may not replace the courthouse at the county seat.

(d) A court required by law to hold its terms at the county seat, except the commissioners court, may hold its terms at a court facility provided under this section.

(e) A district, county, or precinct officer required by law to maintain an office at the county seat may maintain an office and keep official records at a facility provided under this section. The officer must also keep an office at the county seat.

(f) This section does not limit the authority of the commissioners court under any other law relating to the providing of county facilities. (V.A.C.S. Art. 1605a-5, Secs. 1, 2, 3, 6(a).)

Sec. 292.005. ISSUANCE OF BOAT AND OUTBOARD MOTOR CERTIFICATES AT BRANCH OFFICES. Each office of the tax assessor-collector away from the courthouse that maintains a permanent, full-time employee shall accept applications for and issue boat certificates of number, boat certificates of title, and outboard motor certificates of title, as provided for by Subchapters B and B-1, Chapter 31, Parks and Wildlife Code. (V.A.C.S. Art. 1605, Sec. (b).)

[Sections 292.006-292.020 reserved for expansion]

SUBCHAPTER B. AUXILIARY FACILITIES IN CERTAIN COUNTIES

Sec. 292.021. FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OF 90,001 TO 225,000. (a) This section applies only to a county that has:

- (1) a population of 90,001 to 225,000;
- (2) an assessed valuation on property for property tax purposes of more than \$125 million;
- (3) four or more municipalities; and
- (4) a municipality with a population of more than 50,000.

(b) If the commissioners court of a county determines that the courthouse is inadequate to properly house all county offices, that the jail is inadequate to properly confine prisoners, or that an agricultural building is necessary, the commissioners court may purchase, construct, or acquire in another manner a building and, when necessary, a site for the building to satisfy the determined need at any location in the county. The building may contain an auditorium, which may be used by the commissioners court or a county office or officer for any proper county or public purpose. The building or site must be paid for from the permanent improvement fund. (V.A.C.S. Art. 2372j, Sec. 1.)

Sec. 292.022. FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OVER 110,000. (a) This section applies only to a county with a population of more than 110,000.

(b) The commissioners court of a county may acquire land for a branch county office building and may purchase, construct, repair, equip, or improve the building at a location in a municipality that:

- (1) has a population of 10,000 or more;
- (2) is not the county seat; and
- (3) is not contiguous to the county seat.

(c) The commissioners court may issue bonds or certificates of indebtedness and may levy and collect taxes to implement this section. Bonds and certificates of indebtedness issued under this section are negotiable instruments and may be paid from the permanent improvement fund of the county.

(d) Bonds and certificates of indebtedness issued under this section must:

- (1) be authorized by order of the commissioners court;
- (2) be signed by the county judge, attested by the county clerk, and registered by the county treasurer;
- (3) mature in 40 years or less;

(4) bear interest at a rate not to exceed the interest rate prescribed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes); and

(5) have attached coupons evidencing the interest.

(e) Bonds under this section must be issued in compliance with Chapter 1, Title 22, Revised Statutes.

(f) The commissioners court shall submit bonds and certificates issued under this section and records relating to their issuance to the attorney general. If the attorney general approves the bonds or certificates as issued in accordance with state law, the comptroller of public accounts shall register them. On approval, registration, and delivery to the purchaser, the bonds or certificates are incontestable.

(g) This section does not permit the establishment of a branch office away from the county seat if this establishment is forbidden by other law. (V.A.C.S. Art. 1605a-1, Secs. 1, 2, 3, 4 (part), 5 (part).)

Sec. 292.023. **FACILITIES IN COUNTIES WITH POPULATIONS OF 30,000 TO 31,000 AND 54,000 TO 56,000.** (a) This section applies only to a county with a population of:

- (1) 30,000 to 31,000; or
- (2) 54,000 to 56,000.

(b) The commissioners court of a county may provide for, operate, and maintain a branch courthouse outside the county seat. The commissioners court may provide for the branch courthouse by constructing a building or by purchasing, renting, or leasing office space. The expense of operating and maintaining the branch courthouse must be paid from county funds used to operate and maintain other county buildings.

(c) If the branch courthouse is in a county-owned building, the commissioners court has care and custody of the building. The commissioners court:

- (1) shall operate and maintain the building as it operates and maintains the county courthouse; and
- (2) may limit the use and maintenance of the building as it finds necessary.

(d) On approval of the commissioners court, an office, a department, a facility, a court, or other agency of the county may maintain a branch office in the branch courthouse. (V.A.C.S. Art. 2370b-1.)

Sec. 292.024. **TAX ASSESSOR-COLLECTOR FACILITIES IN COUNTIES WITH LARGE CITIES.** The commissioners court of a county may by order authorize the tax assessor-collector to maintain a branch office in a municipality with a population of 5,000 or more, other than the county seat, and to appoint a deputy assessor-collector for the branch office. The salary of a deputy assessor-collector and the expenses of the branch office are necessary expenses of the tax assessor-collector and shall be paid as the expenses of the tax assessor-collector are paid. (V.A.C.S. Art. 1605, Sec. (a) (part).)

Sec. 292.025. **FACILITIES IN COUNTIES WITH POPULATIONS OF 25,001 TO 25,049.** (a) This section applies only to a county with a population of 25,001 to 25,049.

(b) The commissioners court of a county may construct, operate, and maintain an office building or a jail in a municipality other than the county seat in the same manner as the court may take those actions at the county seat. The commissioners court may finance those actions through the issuance of bonds as provided by Chapters 1 and 2, Title 22, Revised Statutes, or through the issuance of evidences of indebtedness in the same manner as evidences of indebtedness applicable to a courthouse or jail at the county seat. Taxes may be levied for the bonds or evidences of indebtedness in the same manner and subject to the same limitations applicable to a courthouse or jail at the county seat. The commissioners court has custody of and shall care for the building.

(c) The commissioners court may allow the tax assessor-collector to maintain a branch office in the building. The commissioners court may allow the maintenance of a jail and justice court in the building. The commissioners court may limit the authorization and maintenance of facilities under this subsection as it considers proper. The expenses incidental to maintaining these facilities are expenses of the county.

(d) A county officer shall keep the original records of office at the county seat. (V.A.C.S. Art. 1605a-2, Secs. 1 (part), 2.)

Sec. 292.026. TAX ASSESSOR-COLLECTOR FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OVER 70,000. (a) This section applies only to a county with a population of more than 70,000.

(b) The commissioners court of a county may allow the tax assessor-collector to maintain a branch office in a municipality with a population of more than 1,000, other than the county seat. (V.A.C.S. Art. 1605, Sec. (a) (part).)

Sec. 292.027. TAX ASSESSOR-COLLECTOR FACILITIES IN COUNTIES WITH POPULATIONS OF 38,200 TO 39,000. (a) This section applies only to a county with a population of 38,200 to 39,000.

(b) The commissioners court of a county may provide for, operate, and maintain a branch office for the tax assessor-collector. The commissioners court may provide for the branch office by constructing a building or by purchasing, renting, or leasing office space.

(c) If the branch office is in a county-owned building, the commissioners court has custody of and shall care for the building. The commissioners court:

(1) shall operate and maintain the building as it operates and maintains the county courthouse; and

(2) may limit the use and maintenance of the building as it finds necessary. (V.A.C.S. Art. 1605a-4, Secs. 1 (part), 2.)

Sec. 292.028. MAINTENANCE OF CERTAIN TAX OFFICES. (a) The commissioners court of a county that establishes a branch office under Section 292.025, 292.026, or 292.027 may appoint a deputy assessor-collector for that office.

(b) The deputy assessor-collector may collect taxes from persons wishing to pay at the branch office and may issue a valid receipt for those taxes. The deputy assessor-collector is subject to the law relating to deputy tax collectors.

(c) The deputy assessor-collector shall enter into a bond payable to the county judge and conditioned that the deputy will faithfully perform the duties of the position. The terms of the bond must be in accordance with the requirements of the tax assessor-collector and commissioners court.

(d) The commissioners court shall fix the period of service of the deputy assessor-collector and the period that a branch office may be maintained. The salary of the deputy assessor-collector and the expenses of the branch office are necessary expenses of the tax assessor-collector and shall be paid as the expenses of the tax assessor-collector are paid.

(e) This section does not limit the liability of the bonds of the tax assessor-collector or the deputy assessor-collector. The tax assessor-collector is liable on the assessor-collector's bond for the taxes collected by the deputy assessor-collector. (V.A.C.S. Art. 1605, Sec. (a) (part); Art. 1605a-2, Sec. 1 (part); Art. 1605a-4, Secs. 3, 4.)

Sec. 292.029. COURT FACILITIES IN COUNTIES WITH POPULATIONS OVER 1.2 MILLION. (a) This section applies only to a county with a population of 1.2 million or more.

(b) The commissioners court of a county may designate a specific geographical location in the county other than the county courthouse as an auxiliary county seat for the holding of nonjury court proceedings. (V.A.C.S. Art. 2370b-2.)

CHAPTER 293. COUNTY BUILDING AUTHORITY ACT

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 293.001. SHORT TITLE
 Sec. 293.002. DEFINITIONS
 Sec. 293.003. COUNTIES SUBJECT TO CHAPTER
 Sec. 293.004. COUNTY BUILDING STUDY COMMITTEE

[Sections 293.005–293.020 reserved for expansion]

SUBCHAPTER B. CREATION AND OPERATION

- Sec. 293.021. ELECTION; COUNTY BUILDING AUTHORITY
 Sec. 293.022. PURPOSES OF AUTHORITY
 Sec. 293.023. BOARD OF DIRECTORS
 Sec. 293.024. EMPLOYEES
 Sec. 293.025. COMPTROLLER
 Sec. 293.026. POWERS OF AUTHORITY
 Sec. 293.027. OPERATION OF AUTHORITY
 Sec. 293.028. DEPOSITORY
 Sec. 293.029. INVESTMENT OF FUNDS
 Sec. 293.030. LAW AFFECTING CERTAIN CONTRACTS
 Sec. 293.031. UNDERGROUND SHELTER
 Sec. 293.032. POWER OF COUNTY
 Sec. 293.033. PROVISION OF FACILITIES BY COUNTY
 Sec. 293.034. TRANSFER OF ASSETS TO COUNTY; DISSOLUTION

[Sections 293.035–293.050 reserved for expansion]

SUBCHAPTER C. FUNDING

- Sec. 293.051. REVENUE BONDS
 Sec. 293.052. JUNIOR LIEN BONDS; PARITY BONDS
 Sec. 293.053. EXAMINATION AND APPROVAL
 Sec. 293.054. LEGAL AND AUTHORIZED INVESTMENTS
 Sec. 293.055. REFUNDING BONDS
 Sec. 293.056. INITIAL INTEREST

CHAPTER 293. COUNTY BUILDING AUTHORITY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 293.001. SHORT TITLE. This chapter may be cited as the County Building Authority Act. (V.A.C.S. Art. 2372o, Sec. 1 (part).)

Sec. 293.002. DEFINITIONS. In this chapter:

- (1) "Authority" means a county building authority created under this chapter.
- (2) "Bond resolution" means a resolution of a board authorizing the issuance of bonds.
- (3) "Board" means the board of directors of an authority.
- (4) "Project" means the property acquired and building constructed by an authority.
- (5) "Trust indenture" means an instrument pledging revenue of property or creating a mortgage lien on property to secure bonds issued under this chapter. (V.A.C.S. Art. 2372o, Sec. 2.)

Sec. 293.003. COUNTIES SUBJECT TO CHAPTER. This chapter applies only to a county that:

- (1) has a population of more than 600,000; and
- (2) owns and uses, together with other structures, a courthouse that is more than 30 years old and that has not been completely renovated or remodeled during the preceding 30 years. (V.A.C.S. Art. 2372o, Sec. 1 (part).)

Sec. 293.004. COUNTY BUILDING STUDY COMMITTEE. (a) The commissioners court of the county by order shall create a county building study committee if the commissioners court determines that doing so is in the best interest of the county and its residents.

(b) The committee consists of five members, with one appointed by the county judge and one appointed by each county commissioner.

(c) The committee may:

(1) study the need for a new or expanded county building and the possibility of including in the building devices and characteristics to protect life and property in modern warfare;

(2) make preliminary plans and surveys concerning the requirements, costs, and feasibility of the project; and

(3) make recommendations to the commissioners court.

(d) The county may pay the cost of the study, which may not exceed \$25,000. (V.A.C.S. Art. 2372o, Sec. 3.)

[Sections 293.005–293.020 reserved for expansion]

SUBCHAPTER B. CREATION AND OPERATION

Sec. 293.021. ELECTION; COUNTY BUILDING AUTHORITY. (a) After reviewing and considering the recommendations of the county building study committee, the commissioners court may call an election at which the qualified voters of the county are entitled to vote for or against the proposition: the construction, acquisition, improvement, equipping, and furnishing of a county building and the issuance of negotiable revenue bonds to provide funds for this purpose.

(b) If a majority of the qualified voters of the county vote for the proposition, a county building authority is created. (V.A.C.S. Art. 2372o, Secs. 1 (part), 4.)

Sec. 293.022. PURPOSES OF AUTHORITY. The purposes of the authority are to construct, acquire, improve, equip, furnish, maintain, and operate a county building adequate to meet the county's needs. In planning the building, the authority may consider the anticipated population and economic growth of the county and the demands that this growth will create for space for county activities. (V.A.C.S. Art. 2372o, Sec. 8 (part).)

Sec. 293.023. BOARD OF DIRECTORS. (a) The authority is governed by a board composed of five directors. The county judge appoints one director and each county commissioner appoints one. A county officer or employee is not eligible for appointment as a director.

(b) The term of office of a director expires on December 31 not more than two years after the date that the director's term began. The directors may provide for staggered terms, in which case the directors shall draw lots to determine which directors' terms expire in which year.

(c) If a vacancy occurs in the office of a director by death, resignation, or expiration of a term, the person holding the office of the county officer who originally appointed the vacating director shall appoint a person to fill the vacancy.

(d) The board shall elect one member as president and one member as vice-president. The board shall select a secretary and a treasurer who may or may not be members. The offices of secretary and treasurer may be combined into one office. The board may elect other officers as authorized by the bylaws of the authority.

(e) A majority of the board is a quorum. The board may act by a majority vote of directors present if a quorum is present.

(f) A director may not receive compensation for services on the board but is entitled to reimbursement for expenses incurred in performing the services. (V.A.C.S. Art. 2372o, Secs. 5, 6(a) (part).)

Sec. 293.024. EMPLOYEES. (a) The board may employ:

- (1) a manager or executive director of properties;
- (2) legal counsel; and
- (3) other employees, experts, and agents that the board considers necessary.

(b) The board may delegate to the manager the power to employ and discharge employees. (V.A.C.S. Art. 2372o, Sec. 6(a) (part).)

Sec. 293.025. **COMPTROLLER.** (a) The county auditor shall appoint a comptroller for the authority, subject to the approval of the board and the commissioners court. The comptroller shall:

- (1) work under the direction of the county auditor;
- (2) institute budget, purchasing, and fiscal procedures that conform to accepted business and accounting practices; and
- (3) make quarterly reports to the commissioners court.

(b) The county auditor shall fix the comptroller's salary, subject to approval of the board and commissioners court, and the authority shall pay the salary.

(c) The comptroller's employment may be terminated by an act of the county auditor and a majority vote of the board and commissioners court.

(d) Before the beginning of each fiscal year the comptroller, under the direction of the board, shall prepare the authority's budget for the following fiscal year and submit it to the commissioners court. Within 15 days after the date the budget is submitted, the commissioners court may approve or revise the budget. (V.A.C.S. Art. 2372o, Secs. 6(b), 9 (part).)

Sec. 293.026. **POWERS OF AUTHORITY.** (a) The authority may:

- (1) construct, enlarge, furnish, and equip a building to be used primarily as a county courthouse, subject to the approval of the commissioners court;
- (2) sue or be sued, implead or be impleaded, and complain or defend in court;
- (3) adopt, use, and alter a corporate seal;
- (4) make bylaws for the management and regulation of its affairs;
- (5) make contracts and execute instruments necessary or convenient for conducting its business;
- (6) acquire, purchase, hold, and use land necessary for carrying out its purposes;
- (7) lease land or an interest in land from the county for a term of not more than 99 years at nominal rent or annual rent determined by contract with the county;
- (8) lease real or personal property or an interest in such property to the county for a term of not more than 99 years at nominal rent or annual rent determined by contract with the county;
- (9) lease real or personal property or an interest in such property to a person other than a county for a term of not more than 40 years at an annual rent determined by contract with the person;
- (10) borrow money and accept grants from, and enter into contracts, leases, or other transactions with, federal agencies;
- (11) invest the proceeds of its bonds, until the money is needed, in direct obligations of or obligations unconditionally guaranteed by the United States government, to the extent authorized in the bond resolution or trust indenture;
- (12) fix, alter, charge, and collect rates, rentals, and other charges for services of the authority or use of facilities of the authority or project;
- (13) exercise the power of eminent domain to the extent, in the manner, and under the laws applicable to counties, for the purpose of acquiring property needed for a purpose authorized by this chapter; and
- (14) do anything necessary or convenient to accomplish the purposes of the authority or carry out a power granted to the authority by statute.

(b) A lease under Subsection (a)(9) may not impair the authority's obligations under the bond resolution or trust indenture. On notice specified in the contract, a lessee under such a lease shall surrender possession of the property to the authority if and to the extent that the county requires use of the property.

(c) The power provided by Subsection (a)(10) is not subject to the limitations relating to other powers granted under this section. (V.A.C.S. Art. 2372o, Secs. 7 (part), 9 (part), 21 (part).)

Sec. 293.027. OPERATION OF AUTHORITY. (a) The property of the authority must be held and operated only for governmental and public purposes, for the use and benefit of the public, and without private profit. The property of the authority is exempt from taxation.

(b) The authority shall charge rent, impose charges, and use its sources of revenue to generate revenue sufficient to:

- (1) pay the expenses related to ownership, operation, and upkeep of the authority's property;
- (2) pay interest on the authority's bonds as it becomes due;
- (3) create a sinking fund to pay the authority's bonds as they come due; and
- (4) create and maintain a bond reserve fund and other funds as provided in the bond resolution or trust indenture. (V.A.C.S. Art. 2372o, Secs. 18, 20.)

Sec. 293.028. DEPOSITORY. The authority may:

- (1) select a depository as provided by law for selection of a county depository; or
- (2) award a depository contract to the same depository used by the county on the same terms applicable to the county. (V.A.C.S. Art. 2372o, Sec. 19.)

Sec. 293.029. INVESTMENT OF FUNDS. The investment of and security for authority funds is governed, to the extent applicable, by the law governing investment of and security for a county's funds. The bond resolution or trust indenture may provide further restrictions on the investment. (V.A.C.S. Art. 2372o, Sec. 21 (part).)

Sec. 293.030. LAW AFFECTING CERTAIN CONTRACTS. The board, in connection with a contract for construction or for purchase of equipment and material that requires expenditure or payment of \$2,000 or more, shall comply with Subchapter C, Chapter 262. (V.A.C.S. Art. 2372o, Sec. 7 (part).)

Sec. 293.031. UNDERGROUND SHELTER. The authority may include a civil defense shelter in underground facilities constructed under this chapter. In connection with this shelter the authority may:

- (1) cooperate with the federal civil defense administrator and state civil defense officers; and
- (2) contract as necessary to participate in federal or state assistance in construction and operation of the shelter. (V.A.C.S. Art. 2372o, Sec. 8 (part).)

Sec. 293.032. POWER OF COUNTY. (a) A county may acquire and sell or lease to the authority land that the commissioners court determines is needed for the project. The sale or lease may be for the consideration that the commissioners court, after considering that the project is for the primary benefit of the county, determines is reasonable.

(b) The county may:

- (1) lease property from the authority as is necessary or convenient and as is in the best interest of the county;
- (2) pay the authority, at a bank designated by the authority, an annual rent determined by the lease; and
- (3) levy a tax sufficient to pay the rent as it comes due.

(c) Without limitation by Subsections (a) and (b), a county may do all things necessary or convenient to accomplish the objectives of this chapter. (V.A.C.S. Art. 2372o, Sec. 10.)

Sec. 293.033. PROVISION OF FACILITIES BY COUNTY. This chapter does not alter the authority of the commissioners court to provide county facilities that the

commissioners court considers necessary for the convenience of the people in populated areas. (V.A.C.S. Art. 2372o, Sec. 23.)

Sec. 293.034. TRANSFER OF ASSETS TO COUNTY; DISSOLUTION. On payment of all of its indebtedness, the authority shall convey all of its assets to the county, without cost to the county. On this conveyance, the authority is dissolved. (V.A.C.S. Art. 2372o, Sec. 24.)

[Sections 293.035–293.050 reserved for expansion]

SUBCHAPTER C. FUNDING

Sec. 293.051. REVENUE BONDS. (a) The authority may issue negotiable revenue bonds to provide funds to carry out its purposes.

(b) The bonds must:

- (1) be authorized by a board resolution;
- (2) be authorized by an election that is:
 - (A) called by a resolution of the board;
 - (B) held throughout the authority; and
 - (C) called, held, and publicized in the manner provided by Chapter 1, Title 22, Revised Statutes;
- (3) be signed by the board president or vice-president and countersigned by the board secretary, either by actual or printed facsimile signature;
- (4) include the authority seal;
- (5) mature serially or otherwise in 40 years or less;
- (6) be payable from and secured by a pledge of net revenues from ownership or operation of authority property; and
- (7) be sold at a price and under terms that the board considers the most advantageous and the most reasonably obtainable.

(c) The bonds may:

- (1) be secured, in addition to the security prescribed in Subsection (b)(6), by a mortgage or deed of trust on authority real or personal property;
- (2) bear interest at a rate not to exceed the interest rate prescribed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes);
- (3) be made callable before maturity at the times and prices prescribed in the bond resolution; and
- (4) be made registrable as to principal, interest, or both. (V.A.C.S. Art. 2372o, Secs. 11, 12.)

Sec. 293.052. JUNIOR LIEN BONDS; PARITY BONDS. (a) The authority may issue bonds constituting a junior lien on net revenues or property of the authority unless prohibited by the bond resolution or trust indenture.

(b) The authority may issue parity bonds under conditions specified in the bond resolution or trust indenture. (V.A.C.S. Art. 2372o, Sec. 13.)

Sec. 293.053. EXAMINATION AND APPROVAL. (a) After the authority authorizes bonds, including refunding bonds, it shall submit the bonds and the record relating to their issuance to the attorney general. If the bonds purport to be secured by a pledge of proceeds of an existing lease with the county or another governmental agency, a copy of

the lease contract and the proceedings of the governmental authority authorizing the lease shall also be submitted.

(b) The attorney general shall examine the submitted documents and shall approve the bonds and the lease contract, if any, if they are determined to be valid. On approval of the attorney general, the comptroller of public accounts shall register the bonds.

(c) On approval and registration of the bonds under this section, the bonds and the lease contract, if any, are valid, binding, and incontestable. (V.A.C.S. Art. 2372o, Sec. 16.)

Sec. 293.054. **LEGAL AND AUTHORIZED INVESTMENTS.** (a) Authority bonds are legal and authorized investments for a bank, savings bank, trust company, savings and loan association, insurance company, fiduciary, trustee, or guardian, or a sinking fund of a municipality, county, school district, or political subdivision of the state.

(b) Authority bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state. The bonds may provide this security in an amount up to their value, if all unmatured coupons, if any, are attached. (V.A.C.S. Art. 2372o, Sec. 17.)

Sec. 293.055. **REFUNDING BONDS.** (a) The authority may issue bonds for the purpose of refunding outstanding bonds. Refunding bonds may be issued in the manner provided by this chapter for the issuance of other bonds, except that an election is not required.

(b) The comptroller of public accounts may exchange the refunding bonds for the outstanding bonds or the authority may sell the refunding bonds and apply the proceeds according to Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 2372o, Sec. 15.)

Sec. 293.056. **INITIAL INTEREST.** The board may set aside the following money from the proceeds from the sale of bonds:

- (1) money necessary to pay interest on the bonds for not more than two years; and
- (2) money that the board estimates to be necessary to pay the authority's operating expenses for its first year of operation. (V.A.C.S. Art. 2372o, Sec. 14.)

[Chapters 294–300 reserved for expansion]

SUBTITLE C. PUBLIC BUILDING PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 301. AUDITORIUMS JOINTLY ESTABLISHED BY COUNTIES AND MUNICIPALITIES

- Sec. 301.001. **AUTHORITY TO ESTABLISH AUDITORIUM**
- Sec. 301.002. **FINANCING OF AUDITORIUM**
- Sec. 301.003. **DELEGATION OF AUTHORITY TO BOARD OF MANAGERS; DONATIONS**
- Sec. 301.004. **COMPOSITION AND TERMS OF OFFICE OF BOARD OF MANAGERS**
- Sec. 301.005. **CHAIRMAN AND OTHER OFFICERS**
- Sec. 301.006. **AUTHORITY OF BOARD TO CONTRACT**
- Sec. 301.007. **FINANCIAL STATEMENT AND BUDGET**
- Sec. 301.008. **PERSONNEL**

SUBTITLE C. PUBLIC BUILDING PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 301. AUDITORIUMS JOINTLY ESTABLISHED BY COUNTIES AND MUNICIPALITIES

Sec. 301.001. **AUTHORITY TO ESTABLISH AUDITORIUM.** The commissioners court of a county with a population of 20,000 or less and the governing body of a

municipality in that county with a population of 10,000 or more may jointly erect, acquire, equip, maintain, and operate an auditorium. (V.A.C.S. Art. 2372d-9, Sec. 1.)

Sec. 301.002. FINANCING OF AUDITORIUM. The auditorium may be financed out of the general revenues of the county and the municipality in proportions that the commissioners court of the county and the governing body of the municipality decide are appropriate. (V.A.C.S. Art. 2372d-9, Sec. 3.)

Sec. 301.003. DELEGATION OF AUTHORITY TO BOARD OF MANAGERS; DONATIONS. (a) The commissioners court of the county and the governing body of the municipality, by resolution or other proper action, may delegate to a board of managers the authority to acquire land for an auditorium by purchase or lease and to erect, maintain, and equip an auditorium.

(b) The board, for the benefit of the auditorium, may accept gifts and bequests on behalf of the county and municipality and may borrow, receive, exchange, sell, and lend property. If a donor specifies a purpose for a gift or loan, the board shall use the gift or loan for that purpose. (V.A.C.S. Art. 2372d-9, Sec. 2.)

Sec. 301.004. COMPOSITION AND TERMS OF OFFICE OF BOARD OF MANAGERS. (a) The board of managers must consist of seven members. The commissioners court of the county and the governing body of the municipality shall each appoint three members and shall jointly appoint one member.

(b) The members of the board are appointed for staggered terms of two years with the terms of two members appointed by the commissioners court and two members appointed by the governing body of the municipality expiring on February 1 of each odd-numbered year and the remaining terms expiring on February 1 of each even-numbered year.

(c) When the commissioners court or the governing body of the municipality makes its initial appointments to the board, it shall designate two of the members it appoints for terms expiring on the first February 1 of an odd-numbered year that follows the date of the appointments. The remaining appointments shall be designated for terms that expire on the first February 1 of an even-numbered year that follows the date of the appointments.

(d) A vacancy on the board shall be filled for the unexpired part of the term in the same manner that the original appointment was made. (V.A.C.S. Art. 2372d-9, Secs. 4, 9.)

Sec. 301.005. CHAIRMAN AND OTHER OFFICERS. Each year the board shall elect a chairman. The chairman shall preside over board meetings and shall sign the contracts, agreements, and other instruments made by the board on behalf of the county and the municipality. The board may elect other officers. (V.A.C.S. Art. 2372d-9, Sec. 5(a).)

Sec. 301.006. AUTHORITY OF BOARD TO CONTRACT. The board may make any contract connected with or incidental to establishing, equipping, maintaining, or operating the auditorium and may expend funds set aside by the county and the municipality for purposes connected with operating and maintaining the auditorium. However, the board may not bind the county or the municipality to make an expenditure of funds not specifically appropriated by the county or the municipality for the benefit of the auditorium. (V.A.C.S. Art. 2372d-9, Sec. 6.)

Sec. 301.007. FINANCIAL STATEMENT AND BUDGET. (a) Each year the board shall prepare and present to the commissioners court of the county and the governing body of the municipality a complete financial statement about the condition of the auditorium and a proposed budget for the anticipated financial needs of the auditorium for the next year.

(b) On the basis of the financial statement and budget, the commissioners court and the governing body may appropriate to the board an amount of money that the commissioners court and the governing body consider proper and necessary for the operation of the auditorium. (V.A.C.S. Art. 2372d-9, Sec. 7.)

Sec. 301.008. PERSONNEL. The board may employ a superintendent or manager of the auditorium. The superintendent or manager, with the consent of the board, may employ permanent or temporary personnel that are necessary for the maintenance and operation of the auditorium. (V.A.C.S. Art. 2372d-9, Sec. 8.)

[Chapters 302-304 reserved for expansion]

CHAPTER 305. MISCELLANEOUS PUBLIC BUILDING PROVISIONS AFFECTING MUNICIPALITIES AND COUNTIES

Sec. 305.001. JOINT CONSTRUCTION AND MAINTENANCE OF BUILDINGS BY CERTAIN COUNTIES AND MUNICIPALITIES

CHAPTER 305. MISCELLANEOUS PUBLIC BUILDING PROVISIONS AFFECTING MUNICIPALITIES AND COUNTIES

Sec. 305.001. JOINT CONSTRUCTION AND MAINTENANCE OF BUILDINGS BY CERTAIN COUNTIES AND MUNICIPALITIES. (a) This section applies only to a municipality with 2,000 or more inhabitants that is located more than 10 miles from the county seat of the county in which the municipality is located, and to the county in which the municipality is located.

(b) The county and the municipality may jointly own, construct, equip, enlarge, and maintain a building in the municipality, to be used by the justice of the peace, for county branch offices, for a county library, and for a city hall. The county and the municipality must hold in joint ownership the title to the land on which the building stands.

(c) The cost of construction of the building shall be paid from current income and funds on hand, as provided in the budgets or the tax levies of the county and municipality. Annual expenses for the operation and maintenance of the building shall be budgeted by the county and the municipality.

(d) The county and the municipality shall specify in a contract between them:

(1) the amount or proportionate share of the cost of construction and equipment that each party shall contribute;

(2) the party with authority to award contracts, or the fact that awards are to be made by action of both parties;

(3) the account in which funds contributed under Subdivision (1) shall be deposited; and

(4) the procedure by which disbursements from that account shall be authorized.

(e) The contract may provide for:

(1) the appointment of a committee or board to operate and maintain the building;

(2) the delegation of operation and maintenance responsibility to either of the parties; or

(3) the division of annual operation and maintenance expenses between the parties. (V.A.C.S. Art. 1605a-3.)

TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE A. MUNICIPAL PARKS AND OTHER RECREATIONAL
AND CULTURAL RESOURCES

CHAPTER 306. PARK BOARD AND PARK BONDS: MUNICIPALITIES WITH
POPULATION OF MORE THAN 40,000

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 306.001. ELIGIBLE MUNICIPALITIES
- Sec. 306.002. DEFINITION
- Sec. 306.003. CUMULATIVE EFFECT WITH CHARTER PROVISIONS

[Sections 306.004–306.010 reserved for expansion]

SUBCHAPTER B. PARK BOARD OF TRUSTEES

- Sec. 306.011. CREATION OF BOARD
- Sec. 306.012. COMPOSITION; TERM
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- Sec. 306.014. COMPENSATION; EXPENSES
- Sec. 306.015. BOND; OATH
- Sec. 306.016. ORGANIZATION; MEETINGS
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- Sec. 306.018. SEAL

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SUBCHAPTER C. POWERS AND DUTIES

- Sec. 306.031. MANAGEMENT OF PARKS AND FACILITIES
- Sec. 306.032. ADDITIONAL POWERS: COASTAL MUNICIPALITIES WITH POPU-
LATION OF LESS THAN 80,000
- Sec. 306.033. LAND ACQUIRED IN NAME OF BOARD; SALE OF LAND
- Sec. 306.034. GIFTS
- Sec. 306.035. PUBLIC FUNDS
- Sec. 306.036. DEPOSITORIES
- Sec. 306.037. ADVERTISING
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- Sec. 306.040. PERSONNEL
- Sec. 306.041. SUITS; LEGAL SERVICES

[Sections 306.042–306.050 reserved for expansion]

SUBCHAPTER D. FINANCING

- Sec. 306.051. REVENUE BONDS
- Sec. 306.052. BOND APPROVAL AND REGISTRATION
- Sec. 306.053. BONDS AS NEGOTIABLE INSTRUMENTS AND AUTHORIZED IN-
VESTMENTS
- Sec. 306.054. REFUNDING BONDS
- Sec. 306.055. TAX BONDS

TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE A. MUNICIPAL PARKS AND OTHER RECREATIONAL
AND CULTURAL RESOURCES

CHAPTER 306. PARK BOARD AND PARK BONDS: MUNICIPALITIES WITH
POPULATION OF MORE THAN 40,000

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 306.001. ELIGIBLE MUNICIPALITIES. This chapter applies only to home-rule municipalities with a population of more than 40,000. (V.A.C.S. Art. 6081g-1, Sec. 1(a) (part).)

Sec. 306.002. **DEFINITION.** In this chapter, “board” means the park board of trustees. (V.A.C.S. Art. 6081g-1, Sec. 2 (part).)

Sec. 306.003. **CUMULATIVE EFFECT WITH CHARTER PROVISIONS.** This chapter is cumulative of home-rule charter provisions, but this chapter takes precedence in the event of a conflict. (V.A.C.S. Art. 6081g-1, Sec. 8 (part).)

[Sections 306.004–306.010 reserved for expansion]

SUBCHAPTER B. PARK BOARD OF TRUSTEES

Sec. 306.011. **CREATION OF BOARD.** The governing body of the municipality by ordinance may create a board to be known as the Park Board of Trustees for the purpose of acquiring, improving, equipping, maintaining, financing, or operating parks. (V.A.C.S. Art. 6081g-1, Sec. 2 (part).)

Sec. 306.012. **COMPOSITION; TERM.** (a) The board must be composed of nine trustees appointed by the governing body of the municipality. One of the trustees must be a member of the municipality’s governing body.

(b) Trustees serve for staggered terms of two years that expire on the anniversary of the date of appointment.

(c) In appointing the initial board, the governing body shall designate five trustees to serve for terms of two years and four trustees to serve for terms of one year. (V.A.C.S. Art. 6081g-1, Sec. 3 (part).)

Sec. 306.013. **VACANCY.** A vacancy on the board shall be filled by appointment of the governing body of the municipality. (V.A.C.S. Art. 6081g-1, Sec. 3 (part).)

Sec. 306.014. **COMPENSATION; EXPENSES.** A trustee serves without compensation, but is entitled to be reimbursed for necessary expenses, including travel expenses, incurred in the performance of official duties. (V.A.C.S. Art. 6081g-1, Sec. 3 (part).)

Sec. 306.015. **BOND; OATH.** (a) Within 15 days after the date of appointment, a trustee must qualify for office by taking the official oath and filing a good and sufficient bond with the clerk or secretary of the municipality.

(b) The bond must be:

(1) in the amount prescribed by the governing body of the municipality, but not more than \$5,000;

(2) payable to the order of the municipality;

(3) approved by the governing body; and

(4) conditioned that the trustee will faithfully perform the duties of trustee, including the proper handling of money that may come into the hands of the trustee in the trustee’s capacity as a member of the board.

(c) The board shall pay the cost of the bond. (V.A.C.S. Art. 6081g-1, Sec. 4.)

Sec. 306.016. **ORGANIZATION; MEETINGS.** (a) The board shall annually elect from its membership a chairman, a vice-chairman, a secretary, and a treasurer, except that the first chairman shall be designated by the governing body of the municipality at the time of appointment of the first trustees. Officers serve in that capacity for a term of one year.

(b) The offices of secretary and treasurer may be held by the same person.

(c) The board shall hold regular meetings at times fixed by the board and may hold special meetings at other times as necessary. Special meetings may be called by the chairman or by any three trustees. (V.A.C.S. Art. 6081g-1, Sec. 5 (part).)

Sec. 306.017. **RECORDS; AUDIT.** (a) The board shall keep a complete record of all of its meetings and proceedings and shall preserve its minutes, contracts, accounts, and other records in a fireproof vault or safe. Records are the property of the board and are subject to inspection by the governing body of the municipality at reasonable times.

(b) The board may contract with the governing body to have the municipality keep and maintain its records.

(c) All financial transactions and records of the board shall be audited annually by independent auditors selected by the board. (V.A.C.S. Art. 6081g-1, Sec. 6.)

Sec. 306.018. SEAL. The board shall adopt a seal, and the seal shall be placed on each lease, deed, or other instrument usually executed under seal. The seal may be placed on other instruments as required by the board. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

[Sections 306.019–306.030 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 306.031. MANAGEMENT OF PARKS AND FACILITIES. (a) The ordinance establishing the board shall designate the parks and facilities owned by the municipality to be placed under the management and control of the board. The municipality may from time to time by ordinance designate additional parks and facilities to be under the management and control of the board.

(b) The board may acquire by gift, devise, or purchase, or improve or enlarge:

(1) land and buildings to be used for public parks, playgrounds, or historical museums; or

(2) land on which are located:

(A) historic buildings, sites, or landmarks of statewide historical significance associated with historic events or personalities;

(B) prehistoric ruins, burial grounds, or archaeological, paleontological, or vertebrate paleontological sites; or

(C) sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical buildings, markers, monuments, or other historical features.

(c) Land described by Subsection (b) may be located inside or outside the boundaries of the municipality, but must be located inside the limits of the county in which the municipality is located.

(d) The board shall improve, manage, operate, maintain, equip, and finance:

(1) the parks and facilities placed by ordinance under its management and control; and

(2) additional parks and facilities acquired by gift, but not by the exercise of eminent domain. (V.A.C.S. Art. 6081g-1, Secs. 1(a) (part), 7 (part).)

Sec. 306.032. ADDITIONAL POWERS: COASTAL MUNICIPALITIES WITH POPULATION OF LESS THAN 80,000. (a) This section applies only to a home-rule municipality that has a population of less than 80,000 and borders on the Gulf of Mexico.

(b) In addition to other powers under this chapter, the board of a municipality subject to this section may acquire by gift, devise, or purchase or may improve land or buildings, or may construct or enlarge buildings, to be used for public parks, playgrounds, or other facilities that serve the purpose of attracting visitors and tourists to the municipality. The land may be located inside or outside the boundaries of the municipality, but must be located inside the limits of the county in which the municipality is located.

(c) In a municipality subject to this section, the facilities placed under the management and control of the board may include:

(1) parks;

(2) civic centers, civic center buildings, auditoriums, exhibition halls, or coliseums;

(3) marinas or cruise ship terminal facilities;

(4) hotels or motels;

(5) parking facilities;

(6) golf courses;

(7) trolley or trolley transportation systems; and

(8) other facilities considered advisable in connection with the preceding facilities that serve the purpose of attracting visitors and tourists to the municipality. (V.A.C.S. Art. 6081g-1, Secs. 1(b), 7 (part).)

Sec. 306.033. **LAND ACQUIRED IN NAME OF BOARD; SALE OF LAND.** Any interest in land acquired by lease or otherwise and used in connection with a park under this chapter may be acquired in the name of the board. The interest may be sold only if:

(1) the sale is made by the titleholder in compliance with the municipal charter or in compliance with Subchapter A, Chapter 263; and

(2) contractual arrangements are made for the retirement of any indebtedness associated with the interest and issued under this chapter. (V.A.C.S. Art. 6081g-1, Sec. 6(a).)

Sec. 306.034. **GIFTS.** The board may accept and receive from any person, and may expend, gifts of money or other things of value for the purpose of performing any function or authority conferred on the board by this chapter. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.035. **PUBLIC FUNDS.** The board may accept and receive from the municipality, and may expend, funds appropriated by the municipality for the purpose of improving, equipping, maintaining, operating, and promoting recreational and other facilities under the board's management and control. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.036. **DEPOSITORIES.** The money belonging to or under the control of the board shall be deposited and secured substantially in the manner prescribed by law for municipal funds. (V.A.C.S. Art. 6081g-1, Sec. 5 (part).)

Sec. 306.037. **ADVERTISING.** The board may advertise the municipality's recreational advantages for the purpose of attracting visitors, tourists, residents, and other users of the public facilities operated by the board. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.038. **CONTRACTS; OPERATING AGREEMENTS.** (a) The board may enter into a contract, lease, or other agreement connected with, incident to, or in any manner affecting the financing, construction, equipping, maintaining, managing, or operating of facilities under its management and control. The board may execute and perform its powers and functions on land leased from others.

(b) The board may enter into a contract, lease, or agreement with any person relating to the management, operation, or maintenance of any concession, facility, improvement, leasehold, land, or property of any other nature under the management and control of the board. Such a lease or agreement for the use of board properties by others may not exceed a term of 40 years. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.039. **RULES.** The board may adopt and enforce reasonable rules, including rules establishing a means of enforcing other rules, relating to the use of parks and facilities under the management and control of the board, including use by the public or by lessees, concessionaires, or other persons carrying on a business activity within the area of the parks and facilities. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.040. **PERSONNEL.** (a) The board may employ permanent or temporary personnel as it may require, including:

(1) secretaries, stenographers, bookkeepers, accountants, and technical experts;

(2) municipal park and recreational patrolmen and security officers employed as special park police officers, who must be licensed as peace officers by the Commission on Law Enforcement Officer Standards and Education;

(3) unarmed security guards; and

(4) parking attendants.

(b) The board shall determine the qualifications, duties, and compensation of its personnel.

(c) A special park police officer appointed and commissioned by the board under this section may make arrests or perform any other service or duty that may be performed by a sheriff, constable, or other peace officer in enforcing the laws of this state, the

ordinances of the municipality, the ordinances of the county, and the rules of the board applicable to the use of municipal parks and facilities under the management and control of the board.

(d) The board may employ a manager for any park or facility and delegate to the manager full authority for the management and operation of the park or facility, subject only to the direction and orders of the board. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.041. SUITS; LEGAL SERVICES. (a) The board may sue and be sued in its own name.

(b) The board may request from the municipal attorney the legal services it requires. In addition or in the alternative, the board may employ and compensate its own counsel and legal staff. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

[Sections 306.042–306.050 reserved for expansion]

SUBCHAPTER D. FINANCING

Sec. 306.051. REVENUE BONDS. (a) The board may issue revenue bonds in the name of the board for the purpose of acquiring, constructing, improving, or enlarging land, buildings, facilities, or historically significant objects for any statutory purpose or to further a statutory power of the board.

(b) The bonds are payable solely from, and secured by a pledge of, the revenues of all or any designated part of the property or facilities under the management and control of the board or other revenues of the board including revenue from an occupancy tax on hotel rooms or from contracts, leases, or other agreements.

(c) The bonds may be issued in one or more installments or series by resolution of the board. Issuance of the bonds does not require an election.

(d) The bonds may be sold at any price and bear interest at any rate, except that the net effective interest rate may not exceed the maximum allowed by law. The bonds shall be sold by the board at public or private sale on the best terms obtainable.

(e) The bonds shall mature serially or otherwise not more than 40 years after the date of issuance.

(f) The bonds shall be executed by the chairman and secretary of the board in the manner provided for the execution of bonds issued by municipalities.

(g) The bonds shall be issued on terms and conditions in regard to the security, manner, place, and time of payment, pledge of designated revenue, redemption before maturity, and issuance of additional parity or junior lien bonds as specified by the board in the resolution authorizing issuance of the bonds.

(h) Except as provided by this chapter, Articles 1111–1118, Vernon's Texas Civil Statutes, with all additions and amendments as found in Chapter 10, Title 28, Vernon's Texas Civil Statutes, apply to the bonds. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.052. BOND APPROVAL AND REGISTRATION. (a) The bonds may not be delivered until:

(1) a transcript of the proceedings authorizing their issuance has been submitted to the attorney general and approved by the attorney general as to legality; and

(2) the bonds have been registered by the comptroller of public accounts.

(b) If approved by the attorney general, the bonds are incontestable except for fraud. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.053. BONDS AS NEGOTIABLE INSTRUMENTS AND AUTHORIZED INVESTMENTS. (a) The bonds are negotiable instruments and investment securities governed by Chapter 8, Business & Commerce Code.

(b) The bonds are authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for the sinking funds of municipalities, counties, school districts, and other political corporations or subdivisions of the state.

(c) The bonds are eligible to secure the deposit of public funds of the state and of municipalities, counties, school districts, and other political corporations or subdivisions of the state, and are sufficient security for those deposits to the extent of their face value if accompanied by all unmatured appurtenant interest coupons. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.054. REFUNDING BONDS. (a) The board may issue refunding bonds for the purpose of refunding one or more series or installments of outstanding original or refunding revenue bonds of the board.

(b) The refunding bonds must be issued, approved by the attorney general, and registered with the comptroller of public accounts in the manner and on the terms and conditions prescribed by this chapter for the issuance of original bonds.

(c) Refunding bonds must bear interest at rates not to exceed that provided by this chapter for original bonds. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

Sec. 306.055. TAX BONDS. (a) The board may not issue any bonds payable in whole or in part from ad valorem taxes.

(b) The board may receive and expend the proceeds of bonds that are payable from taxes and have been issued by the governing body of the municipality for park purposes after the bonds have been authorized at an election held in the manner required by law. (V.A.C.S. Art. 6081g-1, Sec. 7 (part).)

**CHAPTER 307. USE OF TIDELANDS FOR PARK PURPOSES: GULF COAST
MUNICIPALITIES WITH POPULATION OF 60,000 OR MORE**

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 307.001. ELIGIBLE MUNICIPALITIES
- Sec. 307.002. PROPERTY SUBJECT TO PARK USE
- Sec. 307.003. DEFINITION
- Sec. 307.004. RIGHTS UNAFFECTED
- Sec. 307.005. ADDITIONAL POWERS

[Sections 307.006–307.020 reserved for expansion]

SUBCHAPTER B. MANAGEMENT AND DEVELOPMENT OF PARK LAND

- Sec. 307.021. MANAGEMENT AND DEVELOPMENT OF PARK; PIER
- Sec. 307.022. ACQUISITION OF PRIVATE LANDS FOR PARK
- Sec. 307.023. LEASES AND OPERATING AGREEMENTS

[Sections 307.024–307.040 reserved for expansion]

SUBCHAPTER C. FINANCING

- Sec. 307.041. TAX BONDS
- Sec. 307.042. REVENUE OBLIGATIONS
- Sec. 307.043. ISSUANCE OF REVENUE OBLIGATIONS
- Sec. 307.044. REFUNDING REVENUE BONDS
- Sec. 307.045. BONDS AS NEGOTIABLE INSTRUMENTS AND AUTHORIZED INVESTMENTS
- Sec. 307.046. ADDITIONAL TAX; TIME WARRANTS

**CHAPTER 307. USE OF TIDELANDS FOR PARK PURPOSES: GULF COAST
MUNICIPALITIES WITH POPULATION OF 60,000 OR MORE**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 307.001. ELIGIBLE MUNICIPALITIES. A municipality that borders on the Gulf of Mexico and has a population of 60,000 or more may use and occupy for park purposes gulf tidelands and adjacent water as provided by this chapter. (V.A.C.S. Art. 6081g, Sec. 1 (part).)

Sec. 307.002. PROPERTY SUBJECT TO PARK USE. (a) The municipality may use and occupy for park purposes under this chapter:

(1) the tidelands between:

(A) the lines of ordinary high tide and ordinary low tide of the Gulf of Mexico; and

(B) extensions into the gulf, not more than 1,000 feet apart, of property lines of property that is above and fronting the tidelands and is owned or acquired by the municipality for park purposes or in or to which the municipality has or may acquire easements or other rights or privileges authorizing the municipality to use or occupy the property for park purposes; and

(2) the waters of the gulf adjacent to those tidelands, and the gulf bed below those waters, for a distance not to exceed 2,000 feet from the line of ordinary high tide.

(b) The municipality may declare abandoned for use as streets or highways and may take, use, and occupy for park purposes all or part of any land previously dedicated as a public street or highway that, because of submersion by the waters of the gulf or the building of a seawall, breakwater, or other structure, has become unfit for use as a street or highway, as determined and declared by the governing body of the municipality. (V.A.C.S. Art. 6081g, Sec. 1 (part).)

Sec. 307.003. DEFINITION. In this chapter, "park land" means the land to which the municipality is granted use and occupancy for park purposes by this chapter. (New.)

Sec. 307.004. RIGHTS UNAFFECTED. (a) This chapter does not authorize the taking of any private property or interest without compensation as required by the Texas Constitution.

(b) The State of Texas retains all of the oil, gas, and other mineral rights in and under the park land owned by the state. (V.A.C.S. Art. 6081g, Sec. 1 (part).)

Sec. 307.005. ADDITIONAL POWERS. The powers granted a municipality by this chapter are in addition to any other power conferred by law. (V.A.C.S. Art. 6081g, Sec. 7.)

[Sections 307.006–307.020 reserved for expansion]

SUBCHAPTER B. MANAGEMENT AND DEVELOPMENT OF PARK LAND

Sec. 307.021. MANAGEMENT AND DEVELOPMENT OF PARK; PIER. (a) The governing body of a municipality is entitled to manage and control the park land for park purposes as provided by this chapter.

(b) The governing body may acquire, erect, construct, repair, enlarge, extend, improve, remodel, furnish, equip, operate, and maintain on the park land not more than one pier extending from the shore and other structures on the pier to provide facilities for recreation, amusement, comfort, assemblies, and lodging of the public.

(c) The pier may not:

(1) extend into the gulf for a distance of more than 2,000 feet from the line of ordinary high tide;

(2) extend into any part of a channel deepened or improved for commercial navigation or between the shoreline and any such channel; or

(3) extend into any arm, inlet, bay, or body of water other than the main body of the Gulf of Mexico.

(d) The governing body may determine the suitability of structures or facilities to be provided on the pier and may allow for the erection, provision, operation, and maintenance of any structure or facility for the convenience and comfort of the public, including one or more of the following:

(1) theaters;

(2) restaurants;

(3) accommodations for overnight and transient guests;

(4) convention halls;

- (5) dance halls;
- (6) aquariums;
- (7) exhibition halls;
- (8) stadiums for aquatic or other sports;
- (9) concession and amusement device stands or platforms;
- (10) fishing platforms;
- (11) walkways;
- (12) restrooms, toilet facilities, and resting places; and
- (13) any other structure or facility reasonably adapted and suitable for park purposes on or in connection with the pier. (V.A.C.S. Art. 6081g, Sec. 1 (part).)

Sec. 307.022. ACQUISITION OF PRIVATE LANDS FOR PARK. The municipality may acquire by gift or purchase any interest in privately owned land within the limits of the municipality for use for park purposes in connection with the pier as the governing body of the municipality determines is necessary. (V.A.C.S. Art. 6081g, Sec. 2(a).)

Sec. 307.023. LEASES AND OPERATING AGREEMENTS. (a) The governing body of the municipality may enter into any contract in connection with the pier and its facilities on terms it considers to be in the best interest of the municipality, including:

- (1) a lease under which all or part of the pier is leased to one or more other parties; and
- (2) an operating contract under which all or part of the pier is to be operated by one or more other parties.

(b) A lease or operating contract must be authorized by ordinance or resolution adopted by the governing body and may cover any term of years not to exceed 40 years from the date of the lease or contract.

(c) All or part of the proceeds derived by the municipality from a lease or operating contract may be pledged to the payment of revenue bonds issued by the municipality under Subchapter C.

(d) A lease may authorize the lessee to acquire or construct improvements or facilities and may provide for the transfer of the improvements or facilities to the municipality at the termination of the lease. (V.A.C.S. Art. 6081g, Sec. 2(b).)

[Sections 307.024–307.040 reserved for expansion]

SUBCHAPTER C. FINANCING

Sec. 307.041. TAX BONDS. (a) For the purpose of paying for all or part of the costs of acquiring privately owned land under Section 307.022 or the costs of constructing, furnishing, and equipping the pier or another structure connected with the pier, the municipality may borrow money, issue negotiable bonds, and levy and collect ad valorem taxes sufficient to pay the interest on and provide a sinking fund for the bonds.

(b) The bonds shall be issued in accordance with Chapter 1, Title 22, Revised Statutes. If bonds for the purposes described by this section have been authorized at a previous election in accordance with that chapter, the bonds may be issued without an additional election.

(c) The governing body of the municipality may use bond proceeds to pay part of the cost of erecting, constructing, furnishing, or equipping a structure or improvement authorized by this chapter that, together with the interest in the land occupied by or used in connection with the structure or improvement and the income from the structure or improvement, is to be or has been mortgaged and encumbered for the purpose of paying the additional costs of acquiring, erecting, constructing, furnishing, or equipping the structure or improvement. (V.A.C.S. Art. 6081g, Sec. 3.)

Sec. 307.042. REVENUE OBLIGATIONS. (a) For the purpose of obtaining funds for any purpose authorized by this chapter, the governing body of the municipality may from time to time issue bonds, notes, or warrants secured by a pledge of and payable from the

net revenues derived from the operation of all or a designated part of the pier, structures, or improvements.

(b) As additional security for the bonds, notes, or warrants, the municipality may mortgage and encumber all or a designated part of:

- (1) the pier, structures, or improvements;
- (2) the furnishings and equipment; or

(3) the interest, easement, or other rights in land acquired or to be acquired and used in connection with the park land, including the right of use and occupancy of the park land and the title or rights to the tidelands, waters, or beds of the Gulf of Mexico acquired by the municipality.

(c) As additional security for the bonds, notes, or warrants, the municipality may, by the terms of a mortgage, grant to the purchaser under sale or foreclosure a franchise to operate the properties purchased for a period of not more than 75 years after the purchase. If at the time of the sale or foreclosure there is a pier, structure, or improvement located in whole or in part on or over state-owned tideland, water, and bed of the Gulf of Mexico, during that period of 75 years the purchaser and the purchaser's heirs, successors, and assigns have the same right of use and occupancy to the state-owned tideland, water, and bed as is granted to the municipality under this chapter. On termination of that period or on cessation of use of the property for that purpose, the right of use and occupancy reverts to the municipality.

(d) The municipality may issue bonds, notes, and warrants and mortgage and encumber property under this section whether all or part of the cost is to be paid from:

- (1) bonds, notes, and warrants issued under this section;
- (2) bonds or warrants issued under Section 307.041 or 307.046;
- (3) funds obtained from any other lawful source; or
- (4) a combination of those sources. (V.A.C.S. Art. 6081g, Sec. 4 (part).)

Sec. 307.043. ISSUANCE OF REVENUE OBLIGATIONS. (a) This section applies to the bonds and other obligations issued under Section 307.042.

(b) The bonds shall be made payable to the bearer or to the order of a named payee. The bonds are payable solely from the pledged revenues and, at the option of the municipality, secured by the mortgage and franchise authorized by Section 307.042.

(c) The bonds shall bear interest at a rate not to exceed the maximum net effective interest rate provided by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

(d) The bonds must mature serially or otherwise not more than 40 years after the date of issuance. The governing body of the municipality shall determine:

- (1) the denominations of the bonds;
- (2) one or more places at which the bonds are payable as to interest or principal, which may be any bank inside or outside this state;
- (3) the medium for payment of the bonds;
- (4) the manner in which interest on the bonds is payable;
- (5) any provisions for redemption of the bonds before maturity; and
- (6) the form of the bonds.

(e) A bond or interest coupon bearing the signature or facsimile signature of an official of the municipality who was authorized to sign the bond or coupon at the time of the signature is not invalid because of the official's ceasing to hold the office before delivery of the bonds or not having held office on the date of the bonds.

(f) The governing body may provide for the bonds to be registrable as to principal and interest, or as to principal only, under the terms prescribed by the governing body. The bonds may be issued not subject to registration.

(g) The bonds may be executed in the manner set forth in the proceedings authorizing their issuance, and those proceedings may provide that the bonds or coupons, or both,

shall be executed by facsimile signatures and that a facsimile seal of the municipality be printed on the bonds.

(h) In the proceedings authorizing the issuance of the bonds, the governing body may prohibit the further issuance of bonds payable from the pledged revenues or may reserve the right to issue additional bonds to be secured by a pledge of and payable from those net revenues on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to any conditions as set forth in the proceedings.

(i) If a bond recites that it is secured partially or otherwise by a pledge of the proceeds of one or more contracts made between the municipality and one or more other parties, including a lease or operating contract, a copy of the contracts and the proceedings authorizing the contracts shall be submitted to the attorney general. Approval of the bonds by the attorney general constitutes approval of the contracts, which makes the contracts incontestable except for forgery or fraud.

(j) A bond or other obligation is not a debt of the municipality, but is solely a charge on the income and properties encumbered. The obligation may not be considered in determining the power of the municipality to issue bonds for a purpose authorized by law. Each obligation must contain substantially the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

(k) The nature of the pledge of income and encumbrance of properties to secure the obligations and the control, management, and operation of the properties while any of the obligations remain unpaid is subject to and governed by Articles 1111-1118, Vernon's Texas Civil Statutes, in the same manner as parks described in Article 1111. The issuance of the bonds does not require an election. (V.A.C.S. Art. 6081g, Sec. 4 (part).)

Sec. 307.044. REFUNDING REVENUE BONDS. (a) The governing body of the municipality may provide by ordinance for the issuance of revenue refunding bonds for the purpose of refunding outstanding revenue bonds and any accrued interest, interest on past due principal, interest on past due interest, and court judgments pertaining to past due principal and interest.

(b) The issuance of refunding bonds, the maturity dates and other details of the bonds, the rights of bond holders, and the duties and powers of the municipality in regard to the bonds are governed by the provisions of this chapter relating to original revenue bonds to the extent those provisions can be made applicable.

(c) Refunding bonds may bear interest at a rate higher than that borne by the underlying bonds, but may not exceed the maximum net effective interest rate applicable to those bonds. (V.A.C.S. Art. 6081g, Sec. 4 (part).)

Sec. 307.045. BONDS AS NEGOTIABLE INSTRUMENTS AND AUTHORIZED INVESTMENTS. (a) All bonds issued under this chapter are negotiable instruments under Chapter 3, Business & Commerce Code.

(b) The bonds are legal investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for the sinking funds of municipalities, counties, school districts, and other political corporations or political subdivisions of the state.

(c) The bonds are eligible to secure the deposit of any public funds of the state or of a municipality, county, school district, or other political corporation or political subdivision of the state. The bonds are sufficient security for the deposits to the extent of their face value when accompanied by all unmatured appurtenant interest coupons. (V.A.C.S. Art. 6081g, Secs. 4 (part), 4a.)

Sec. 307.046. ADDITIONAL TAX; TIME WARRANTS. (a) In addition to the taxes authorized for the payment of principal of and interest on bonds, the governing body of the municipality may levy and collect an annual ad valorem tax for the purpose of:

(1) defraying in part the cost of acquiring, building, constructing, erecting, furnishing, or equipping the pier or a structure or improvement, or the cost of any interest in land in connection with the pier, structure, or improvement; or

(2) repairing, enlarging, extending, altering, or improving the pier or a structure or improvement.

(b) The governing body may issue interest-bearing time warrants, payable from the taxes authorized by this section, and expend the proceeds for the same purposes for which the taxes may be levied. (V.A.C.S. Art. 6081g, Sec. 5.)

CHAPTER 308. MUNICIPAL BANDS

- Sec. 308.001. DEFINITION
- Sec. 308.002. ESTABLISHMENT AND MAINTENANCE
- Sec. 308.003. ELECTION
- Sec. 308.004. ELECTION TO DISCONTINUE BAND
- Sec. 308.005. FREQUENCY OF ELECTIONS
- Sec. 308.006. ORDINANCES
- Sec. 308.007. CITIZEN COMMISSION
- Sec. 308.008. EFFECT OF LAW ON OTHER POWERS

CHAPTER 308. MUNICIPAL BANDS

Sec. 308.001. DEFINITION. In this chapter, "band" means a band composed of musical instruments recognized in the standard instrumentation established for use in United States Army bands. (V.A.C.S. Art. 1269a.)

Sec. 308.002. ESTABLISHMENT AND MAINTENANCE. (a) A municipality may establish and maintain a band and appropriate municipal funds for the maintenance and operation of the band as determined by the municipal governing body.

(b) The total appropriation for the band for a year may not exceed the equivalent of three-tenths of a cent for each one dollar of taxable value of property within the municipality. (V.A.C.S. Art. 1269b.)

Sec. 308.003. ELECTION. (a) On receipt of a written petition signed by a number of qualified property taxpaying voters equal to at least 10 percent of the total number of votes cast in the most recent municipal general election, the governing body of the municipality shall submit to the voters of the municipality the question of whether a band shall be established and maintained by the municipality.

(b) To the extent possible, the election shall be held in accordance with the law governing the municipality's general elections.

(c) If a majority of the votes received are in favor of the proposition to establish and maintain a band, the governing body shall establish and maintain a band.

(d) If the proposition is defeated, on receipt of a similar petition the municipality may hold subsequent elections for the purpose of determining whether to establish and maintain a band. (V.A.C.S. Arts. 1269c, 1269d (part).)

Sec. 308.004. ELECTION TO DISCONTINUE BAND. (a) On receipt of a petition meeting the requirements of Section 308.003, the governing body of the municipality shall hold an election to determine whether to discontinue a band previously established under this chapter. The election shall be conducted in the same manner as the election establishing the band.

(b) If a majority of the votes received are in favor of the proposition to discontinue the band, the governing body shall discontinue the band and municipal maintenance of the band. (V.A.C.S. Art. 1269d (part).)

Sec. 308.005. FREQUENCY OF ELECTIONS. A municipality may not hold two elections under this chapter within a period of less than two years. (V.A.C.S. Art. 1269d (part).)

Sec. 308.006. ORDINANCES. The governing body of the municipality may adopt any ordinance or resolution to enable the municipality to maintain the band. (V.A.C.S. Art. 1269e (part).)

Sec. 308.007. CITIZEN COMMISSION. The governing body of the municipality shall appoint a nonpartisan citizen commission composed of three, four, or five members to

negotiate contracts, formulate rules, and do all other things necessary or proper to establish, control, and maintain the band. (V.A.C.S. Art. 1269e (part).)

Sec. 308.008. EFFECT OF LAW ON OTHER POWERS. This chapter does not affect any special charter granted by the legislature, or any charter adopted by the voters, before August 23, 1925. (V.A.C.S. Art. 1269f.)

[Chapters 309–314 reserved for expansion]

CHAPTER 315. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

- Sec. 315.001. MUNICIPAL PARKS OUTSIDE MUNICIPAL LIMITS: CHARGES; CUMULATIVE EFFECT WITH CHARTER PROVISIONS; LIABILITY
- Sec. 315.002. ESTABLISHMENT OF MUNICIPAL STREETS THROUGH CERTAIN PARKS
- Sec. 315.003. IMPROVEMENT OF PUBLIC GROUNDS BY TYPE A GENERAL-LAW MUNICIPALITY
- Sec. 315.004. SPECIAL ASSESSMENT TO PAY FOR PARKS: MUNICIPALITY WITH 12,000 OR MORE INHABITANTS
- Sec. 315.005. MUNICIPAL LIBRARY IN TYPE A GENERAL-LAW MUNICIPALITY

CHAPTER 315. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

Sec. 315.001. MUNICIPAL PARKS OUTSIDE MUNICIPAL LIMITS: CHARGES; CUMULATIVE EFFECT WITH CHARTER PROVISIONS; LIABILITY. (a) The governing body of a municipality with a park or playground outside the municipal limits may fix and collect reasonable charges for use of the facilities by the public. All proceeds from the charges shall be used for the support, maintenance, and improvement of the municipal parks and playgrounds.

(b) The provisions of this title relating to the acquisition, operation, and maintenance of parks or playgrounds outside the municipal limits are cumulative of powers provided by a municipal charter, and the municipal charter may provide different powers in that regard.

(c) A municipality that acquires a park or playground outside the municipal limits is not liable for personal injuries resulting from or caused by any defective, unsound, or unsafe condition of the park or playground that results from or is caused by any negligence, want of skill, or lack of care of any governing board, officer, servant, employee, or other person with regard to the construction, management, conduct, or maintenance of the park or playground. (V.A.C.S. Art. 6081d, Secs. 3 (part), 6.)

Sec. 315.002. ESTABLISHMENT OF MUNICIPAL STREETS THROUGH CERTAIN PARKS. (a) Unless approved by a majority of the qualified voters voting in a referendum on the question, a municipality may not establish or dedicate a thoroughfare, public street, or alley through property that:

(1) is dedicated or used for park purposes; and

(2) includes land owned by the state on which is situated one or more buildings in the construction of which the state has expended at least \$50,000.

(b) A municipality may, without an election, maintain driveways through the land described by Subsection (a) if the driveways are for park purposes only and are not for use as general thoroughfares.

(c) This section does not apply to the campus of an educational institution or to the grounds of an eleemosynary institution. (V.A.C.S. Art. 6081f-1.)

Sec. 315.003. IMPROVEMENT OF PUBLIC GROUNDS BY TYPE A GENERAL-LAW MUNICIPALITY. A Type A general-law municipality may provide for the enclosing of, and regulate and improve, all public grounds belonging to the municipality, and may direct and regulate the planting and preserving of ornaments and shade trees along streets and sidewalks and in public grounds. (V.A.C.S. Art. 1015, Subdiv. 32 (part).)

Sec. 315.004. SPECIAL ASSESSMENT TO PAY FOR PARKS: MUNICIPALITY WITH 12,000 OR MORE INHABITANTS. (a) A municipality with 12,000 or more inhabitants that condemns land for laying out, establishing, or enlarging a park, parkway, or pleasure ground may provide by ordinance that the cost of the land and improvements be paid for, wholly or partly to an extent not exceeding the special benefits received, by the property owners who own property in the vicinity of and are benefitted by the park, parkway, or pleasure ground.

(b) The municipality may fix liens against the benefitted property to the extent of the special benefits. Neither an assessment nor a lien is effective against homestead property.

(c) The manner of assessing and collecting from the property owner is the same as provided by law in connection with the opening or widening of streets. Assessments may be made payable in not more than 16 installments, the last maturing in not more than 15 years, and may bear interest at a rate not exceeding eight percent a year. (V.A.C.S. Art. 1015a.)

Sec. 315.005. MUNICIPAL LIBRARY IN TYPE A GENERAL-LAW MUNICIPALITY. A Type A general-law municipality may establish a free library in the municipality, adopt rules for the proper management of the library, and appropriate municipal revenues for the library's management or improvement. (V.A.C.S. Art. 1015, Subdiv. 33.)

SUBTITLE B. COUNTY PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

CHAPTER 316. COUNTY USE FEES

SUBCHAPTER A. GENERAL AUTHORITY

- Sec. 316.001. AUTHORITY TO SET AND COLLECT FEES
- Sec. 316.002. EXCEPTIONS
- Sec. 316.003. AMOUNT OF FEES
- Sec. 316.004. SPECIAL CIRCUMSTANCES; WAIVER
- Sec. 316.005. DISPOSITION OF FEES

[Sections 316.006–316.020 reserved for expansion]

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

- Sec. 316.021. MUSEUMS AND HISTORIC SITES: COUNTIES WITH POPULATION OF 1,200,000 OR MORE

SUBTITLE B. COUNTY PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

CHAPTER 316. COUNTY USE FEES

SUBCHAPTER A. GENERAL AUTHORITY

Sec. 316.001. AUTHORITY TO SET AND COLLECT FEES. Except as provided by Section 316.002, the commissioners court of a county may set and collect fees:

- (1) for the use of county recreational facilities, including facilities constructed or installed in a county park;
- (2) for the use of recreational services provided by the county; or
- (3) for the rental or sale of recreational supplies by the county in conjunction with the provision of county recreational facilities or services. (V.A.C.S. Art. 2372d–10, Sec. 1.)

Sec. 316.002. EXCEPTIONS. This chapter does not authorize the commissioners court to set or collect a fee:

- (1) for admission to a general-purpose county park;
- (2) for the use of a toilet or other restroom facility;

(3) for the sale of water for human consumption; or

(4) for the use of a team sports facility, including a baseball, football, basketball, volleyball, or soccer facility, by a sports team composed primarily of minors and sponsored and supported by a nonprofit organization. (V.A.C.S. Art. 2372d-10, Sec. 2.)

Sec. 316.003. AMOUNT OF FEES. The commissioners court may not set the fees in amounts that would produce more total revenue in a year than is necessary to pay the annual expense of providing all county recreational facilities and services. (V.A.C.S. Art. 2372d-10, Sec. 3.)

Sec. 316.004. SPECIAL CIRCUMSTANCES; WAIVER. The commissioners court may set and collect the fees in different amounts or may waive the fees in consideration of the following factors:

(1) the time of the day at which or the day of the week on which a facility or service is used;

(2) the size of a group wishing to use a facility or service;

(3) the special circumstances of certain classes of persons, including elderly persons and indigent persons; or

(4) other factors that the court considers to justify a different fee or the waiver of a fee. (V.A.C.S. Art. 2372d-10, Sec. 4.)

Sec. 316.005. DISPOSITION OF FEES. Fees collected under this chapter shall be deposited in the general fund of the county. (V.A.C.S. Art. 2372d-10, Sec. 5.)

[Sections 316.006-316.020 reserved for expansion]

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 316.021. MUSEUMS AND HISTORIC SITES: COUNTIES WITH POPULATION OF 1,200,000 OR MORE. (a) The commissioners court of a county with a population of 1,200,000 or more may charge and collect a fee from the general public for admission to a county-operated museum, historical site, historical building, or other similar building or site.

(b) The commissioners court by order may set the admission fee authorized by this section.

(c) Admission fees charged and collected under this section shall be placed in a county special fund to be used by the commissioners court for the payment of costs associated with the administration, maintenance, security, or staffing necessary to operate the building or site. The special fund may not be expended for purposes other than those associated with the building or site. (V.A.C.S. Art. 2372d-7.)

CHAPTER 317. ABANDONMENT OF COUNTY PARKS

Sec. 317.001. HEARING

Sec. 317.002. NOTICE OF HEARING

Sec. 317.003. ACTION AT HEARING

Sec. 317.004. EFFECT OF ABANDONMENT

CHAPTER 317. ABANDONMENT OF COUNTY PARKS

Sec. 317.001. HEARING. On the application of any person, the commissioners court of a county shall hold a hearing to determine if land dedicated as a county park is undesirable for park purposes and if the park should be closed and abandoned. The commissioners court may conduct such a hearing on its own motion. (V.A.C.S. Art. 6078a (part).)

Sec. 317.002. NOTICE OF HEARING. (a) Notice of the time and place of the hearing shall be published in a newspaper published in the county. The notice must be in English and must be published once a week for three consecutive weeks before the hearing, with the first publication appearing before the 21st day before the date of the hearing.

(b) If no newspaper is published in the county, the commissioners court shall post the notice at the courthouse door. The notice must remain posted for at least 21 consecutive days preceding the date of the hearing.

(c) The notice must:

- (1) contain a brief description of the land;
- (2) state that at the hearing the commissioners court will determine whether the park should be closed and abandoned; and
- (3) direct all interested persons desiring to protest the closing and abandonment to appear at the time and place of the hearing. (V.A.C.S. Art. 6078a (part).)

Sec. 317.003. ACTION AT HEARING. (a) At the hearing, the commissioners court shall:

- (1) hear evidence as to whether the land is desirable for park purposes; and
- (2) make a full investigation as to whether the public interest would be better served by the retention and maintenance of the land as a county park or by the closing and abandonment of the park.

(b) After the hearing, the commissioners court shall enter in its minutes an order retaining the park or abandoning and closing the park, according to its determination as to the best public interest. (V.A.C.S. Art. 6078a (part).)

Sec. 317.004. EFFECT OF ABANDONMENT. (a) If the commissioners court orders that the park be closed and abandoned, the dedication of the land for that purpose expires, and the owner of the land holds fee simple title unencumbered by the dedication.

(b) To be vested with an unencumbered title under this section, the owner of the land must pay to the state and each political subdivision any taxes due on the land at the time the land was conveyed to the county for park purposes. (V.A.C.S. Art. 6078a (part).)

CHAPTER 318. HISTORIC PRESERVATION BY COUNTIES

SUBCHAPTER A. COUNTY HISTORICAL COMMISSION

- Sec. 318.001. DEFINITION
- Sec. 318.002. ESTABLISHMENT
- Sec. 318.003. COMPOSITION; TERM
- Sec. 318.004. APPOINTMENT BY STATE
- Sec. 318.005. MEETINGS
- Sec. 318.006. CONTINUING SURVEY; COUNTY REGISTER
- Sec. 318.007. HISTORICAL TRAIL
- Sec. 318.008. REPORTS AND RECOMMENDATIONS
- Sec. 318.009. EXPENSES
- Sec. 318.010. OPERATION OF MUSEUM
- Sec. 318.011. MARKERS; COLLECTIONS; COUNTY HISTORY
- Sec. 318.012. HISTORIC SITE TAX EXEMPTION
- Sec. 318.013. CONTRACTS FOR LEASE OR MANAGEMENT OF LANDMARKS

[Sections 318.014–318.020 reserved for expansion]

SUBCHAPTER B. SUPPORT OF PRIVATE ORGANIZATIONS

- Sec. 318.021. APPROPRIATIONS TO HISTORICAL FOUNDATIONS: COUNTIES WITH POPULATION OF 160,000 TO 170,000

CHAPTER 318. HISTORIC PRESERVATION BY COUNTIES

SUBCHAPTER A. COUNTY HISTORICAL COMMISSION

Sec. 318.001. DEFINITION. In this subchapter, "commission" means the county historical commission. (New.)

Sec. 318.002. ESTABLISHMENT. The commissioners court of a county may appoint a county historical commission for the purpose of initiating and conducting programs suggested by the commissioners court and the Texas Historical Commission for the preservation of the historical heritage of the county. (V.A.C.S. Art. 6145.1, Sec. (a) (part).)

Sec. 318.003. COMPOSITION; TERM. (a) The commission must be composed of at least seven residents of the county.

(b) The members of the commission shall be appointed during the month of January of odd-numbered years and are appointed for a term of two years. (V.A.C.S. Art. 6145.1, Sec. (a) (part).)

Sec. 318.004. APPOINTMENT BY STATE. If the commissioners court fails to appoint a commission by April 1 of each odd-numbered year, the Texas Historical Commission may appoint the commission after 30 days' written notice to the commissioners court of its intention to do so. (V.A.C.S. Art. 6145.1, Sec. (a) (part).)

Sec. 318.005. MEETINGS. The commission shall meet at least once each year at the county seat and may meet as often as the commission may determine under rules adopted by it for its own regulation. (V.A.C.S. Art. 6145.1, Sec. (b) (part).)

Sec. 318.006. CONTINUING SURVEY; COUNTY REGISTER. (a) The commission shall institute and carry out a continuing survey of the county to determine the existence of historical buildings and other historical sites, private collections of historical memorabilia, or other historical features within the county, and shall report the data collected to the commissioners court and the Texas Historical Commission.

(b) The commission shall compile the data in a county register of historical places and memorabilia. (V.A.C.S. Art. 6145.1, Sec. (c).)

Sec. 318.007. HISTORICAL TRAIL. The commission, with the approval of the commissioners court, may designate as a historical trail any road or highway route that links historical sites in the county and may designate certain areas of the county as special areas of historical interest. (V.A.C.S. Art. 6145.1, Sec. (e) (part).)

Sec. 318.008. REPORTS AND RECOMMENDATIONS. (a) The commission shall make an annual report of its activities and recommendations simultaneously to the commissioners court and to the Texas Historical Commission before the end of each calendar year. The commission may make as many other reports and recommendations as it sees fit.

(b) The commission shall make recommendations to the commissioners court and the Texas Historical Commission concerning the acquisition of property, real or personal, that is of historical significance. (V.A.C.S. Art. 6145.1, Secs. (b) (part), (e) (part).)

Sec. 318.009. EXPENSES. The commissioners court may pay the necessary expenses of the commission. (V.A.C.S. Art. 6145.1, Sec. (d) (part).)

Sec. 318.010. OPERATION OF MUSEUM. The commission may:

- (1) operate and manage any museum owned or leased by the county;
- (2) acquire artifacts and other museum paraphernalia in the name of the museum or the commission; and
- (3) supervise any employees hired by the commissioners court to operate the museum. (V.A.C.S. Art. 6145.1, Sec. (f).)

Sec. 318.011. MARKERS; COLLECTIONS; COUNTY HISTORY. The commissioners court may make agreements with governmental agencies or private organizations and may appropriate funds from the general fund of the county for the purpose of:

- (1) erecting historical markers, monuments, and medallions;
- (2) purchasing objects and collections of objects of any kind that are historically significant to the county; and
- (3) preparing, publishing, and disseminating, by sale or otherwise, a history of the county. (V.A.C.S. Art. 6145.1, Sec. (g).)

Sec. 318.012. HISTORIC SITE TAX EXEMPTION. (a) The commissioners court may establish a program under which the commission:

(1) receives and reviews applications that are filed with the county and that request a property tax exemption under Section 11.24, Tax Code; and

(2) recommends to the commissioners court whether to grant the exemption and, if the grant of the exemption is recommended, how much of the property's assessed value should be exempt from taxation.

(b) The commission may examine the property that is granted the exemption on recommendation of the commission and recommend to the commissioners court whether the exemption should be withdrawn because of changed circumstances involving the property.

(c) A person is entitled to appear before the commissioners court and state any objections to a recommendation made by the commission under this section regarding property owned by the person.

(d) The commissioners court may require a person whose property is granted the exemption to notify the commission of any plans the person may have to modernize the property or change it in any other manner. (V.A.C.S. Art. 6145.1, Sec. (i).)

Sec. 318.013. CONTRACTS FOR LEASE OR MANAGEMENT OF LANDMARKS.

(a) The commissioners court may, on recommendation of the commission or other interested persons, contract with a private person for the lease or management of any county-owned real estate or structure that is designated by the Texas Historical Commission as a Recorded Texas Historic Landmark considered worthy of preservation because of its history, culture, or architecture.

(b) The contract must be drawn in consultation with the commission and must specify the duties of the contracting party, including duties as to:

(1) maintenance and repairs;

(2) providing public access;

(3) restricting inappropriate commercial uses; and

(4) promoting preservation of the historic, cultural, or architectural aspects of the landmark.

(c) The contract may be handled in the same manner as a contract for professional services rendered to a county, such as a contract for architectural or engineering services, if the contract is with a nonprofit organization chartered in this state.

(d) The contract may be for a period of years as determined by the commissioners court. (V.A.C.S. Art. 6145.1, Sec. (h).)

[Sections 318.014–318.020 reserved for expansion]

SUBCHAPTER B. SUPPORT OF PRIVATE ORGANIZATIONS

Sec. 318.021. APPROPRIATIONS TO HISTORICAL FOUNDATIONS: COUNTIES WITH POPULATION OF 160,000 TO 170,000. The commissioners court of a county with a population of 160,000 to 170,000 may appropriate money from the general fund of the county to a historical foundation or organization in the county for the purpose of purchasing, constructing, restoring, preserving, maintaining, or reconstructing historical landmarks, buildings, and furnishings that are of historical significance to the county. The foundation or organization must be incorporated under the law of this state as a nonprofit corporation. (V.A.C.S. Art. 2372r-1.)

CHAPTER 319. HORTICULTURAL AND AGRICULTURAL EXHIBITS IN COUNTIES

Sec. 319.001. ANNUAL EXHIBITS

Sec. 319.002. MUSEUMS, BUILDINGS, AND IMPROVEMENTS

Sec. 319.003. COOPERATIVE EFFORTS

Sec. 319.004. CONTRACTS AND LEASES

Sec. 319.005. REVENUE

CHAPTER 319. HORTICULTURAL AND AGRICULTURAL
EXHIBITS IN COUNTIES

Sec. 319.001. ANNUAL EXHIBITS. The commissioners court of a county may provide for annual exhibits of horticultural, agricultural, livestock, mineral, and other products that are of interest to the community. (V.A.C.S. Art. 2372d, Sec. 1 (part).)

Sec. 319.002. MUSEUMS, BUILDINGS, AND IMPROVEMENTS. To aid in the exhibition of products listed in Section 319.001, the commissioners court of a county may establish and maintain a museum, building, or other improvement in the county or at any other location in the United States at which a fair or exposition is being held. (V.A.C.S. Art. 2372d, Sec. 1 (part).)

Sec. 319.003. COOPERATIVE EFFORTS. (a) Two or more counties may cooperate with one another and a county may cooperate with local interests to construct the museum, building, or other improvement or to aid and share expenses in the exhibition of products listed in Section 319.001.

(b) A municipality, water improvement district, or water control and improvement district may cooperate with the commissioners court of a county for a purpose stated by Subsection (a) and may appropriate money to aid in the purpose. (V.A.C.S. Art. 2372d, Secs. 2, 3.)

Sec. 319.004. CONTRACTS AND LEASES. (a) The commissioners court of a county may contract for the complete management of, and for the conducting, maintenance, use, and operation of, buildings, improvements, and exhibits authorized under this chapter.

(b) The commissioners court may lease buildings, improvements, or exhibits authorized by this chapter.

(c) A contract or lease made under this section must be evidenced by an order of the commissioners court and entered in the minutes of the court.

(d) The commissioners court may permit the use of a building, improvement, or exhibit for any public purpose the court determines to be of benefit to the county and its residents. (V.A.C.S. Art. 2372d-3, Secs. 1, 2.)

Sec. 319.005. REVENUE. The commissioners court of a county may use the net revenue derived from the use of a building, improvement, or exhibit authorized by this chapter for the management, operation, maintenance, development, improvement, or promotion of activities authorized under this chapter or for any other public purpose. (V.A.C.S. Art. 2372d-3, Sec. 3.)

CHAPTER 320. PARK BOARD AND PARK BONDS: COUNTIES WITH
POPULATION OF 5,000 OR MORE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 320.001. ELIGIBLE COUNTIES

Sec. 320.002. DEFINITION

Sec. 320.003. CREATION OF PARKS BOARD

Sec. 320.004. EXERCISE OF POWERS BY COMMISSIONERS COURT

[Sections 320.005–320.020 reserved for expansion]

SUBCHAPTER B. BOARD OF PARK COMMISSIONERS

Sec. 320.021. COMPOSITION; TERM; QUALIFICATIONS

Sec. 320.022. VACANCY

Sec. 320.023. OATH; BOND

Sec. 320.024. CERTIFICATE OF APPOINTMENT

Sec. 320.025. ORGANIZATION; MEETINGS

Sec. 320.026. EXPENSES

Sec. 320.027. CONFLICT OF INTEREST

Sec. 320.028. SEAL

[Sections 320.029–320.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

- Sec. 320.041. OPERATION AND MAINTENANCE OF PARKS
- Sec. 320.042. PERSONNEL
- Sec. 320.043. DEPOSITORIES AND DISBURSEMENTS; AUDITS
- Sec. 320.044. CONTRACTS
- Sec. 320.045. RULES
- Sec. 320.046. GRANTS
- Sec. 320.047. FINANCIAL STATEMENT; BUDGET
- Sec. 320.048. SUITS; LEGAL SERVICES
- Sec. 320.049. RECORDS
- Sec. 320.050. SUPERVISION BY COMMISSIONERS COURT

[Sections 320.051–320.070 reserved for expansion]

SUBCHAPTER D. REVENUE BONDS

- Sec. 320.071. ISSUANCE; PURPOSE
- Sec. 320.072. ELECTION
- Sec. 320.073. PLEDGE OF REVENUES
- Sec. 320.074. PROCEEDS
- Sec. 320.075. APPROVAL AND REGISTRATION
- Sec. 320.076. FEES AND REVENUE
- Sec. 320.077. REFUNDING BONDS
- Sec. 320.078. BONDS NOT STATE OR COUNTY DEBT
- Sec. 320.079. MISCELLANEOUS PROVISIONS

CHAPTER 320. PARK BOARD AND PARK BONDS: COUNTIES WITH
POPULATION OF 5,000 OR MORE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 320.001. ELIGIBLE COUNTIES. The commissioners court of a county with a population of 5,000 or more by order may adopt this chapter for the purpose of acquiring, improving, equipping, maintaining, financing, and operating one or more public parks. (V.A.C.S. Art. 6079e, Secs. 1, 2 (part).)

Sec. 320.002. DEFINITION. In this chapter, “board” means the board of park commissioners. (V.A.C.S. Art. 6079e, Sec. 2 (part).)

Sec. 320.003. CREATION OF PARKS BOARD. (a) The order adopting this chapter must specify whether the powers and duties provided by this chapter will be exercised and performed by the commissioners court or by a board of park commissioners to be created for that purpose.

(b) If a board is created, the commissioners court shall transfer to the board jurisdiction and control of the parks with respect to which the commissioners court adopted this chapter.

(c) The commissioners court may from time to time adopt this chapter with respect to one or more other parks and may appoint another board for those parks. (V.A.C.S. Art. 6079e, Secs. 2 (part), 18 (part).)

Sec. 320.004. EXERCISE OF POWERS BY COMMISSIONERS COURT. (a) If a board is not created, the commissioners court shall exercise the powers and perform the

duties of the board, and references in this chapter to the board are considered to be references to the commissioners court.

(b) If creation of a board is declared by a court to be invalid, the commissioners court shall exercise the powers and perform the duties of the board under this chapter, and the prior acts of the board are considered to have been acts of the commissioners court. (V.A.C.S. Art. 6079e, Secs. 2 (part), 17.)

[Sections 320.005–320.020 reserved for expansion]

SUBCHAPTER B. BOARD OF PARK COMMISSIONERS

Sec. 320.021. COMPOSITION; TERM; QUALIFICATIONS. (a) The board must be composed of seven members appointed by the commissioners court.

(b) Members of the board serve for terms of two years, with the terms of three or four members expiring February 1 of each year. In appointing the initial board, the commissioners court shall designate three members to serve for a term expiring February 1 following their appointment and four members to serve for a term expiring the next February 1. The commissioners court shall make the necessary appointments each January.

(c) A park commissioner must be a qualified voter of the county. A park commissioner may not be an officer or employee of the county or of a municipality in the county. (V.A.C.S. Art. 6079e, Sec. 3 (part).)

Sec. 320.022. VACANCY. A vacancy on the board shall be filled by appointment of the commissioners court for the unexpired term. (V.A.C.S. Art. 6079e, Sec. 3 (part).)

Sec. 320.023. OATH; BOND. (a) Within 15 days after the date a park commissioner is appointed, the commissioner must qualify by taking the official oath and by filing a good and sufficient bond with the county clerk.

(b) The bond must be:

- (1) payable to the county judge;
- (2) in an amount prescribed by the commissioners court of \$5,000 or more; and
- (3) conditioned that the commissioner will faithfully perform the duties of park commissioner, including the proper handling of all money that comes into the hands of the commissioner in the commissioner's capacity as park commissioner.

(c) The board shall pay the cost of the bond. (V.A.C.S. Art. 6079e, Sec. 3 (part).)

Sec. 320.024. CERTIFICATE OF APPOINTMENT. A certificate of appointment executed by the county judge and attested by the county clerk shall be filed in the office of the county clerk. The certificate is conclusive evidence of the proper appointment of the park commissioner. (V.A.C.S. Art. 6079e, Sec. 3 (part).)

Sec. 320.025. ORGANIZATION; MEETINGS. (a) The board shall elect from its membership a chairman, vice-chairman, secretary, and treasurer, except that the first chairman of the board shall be designated by the commissioners court at the time of appointment of the first board. The member designated as the first chairman serves in that capacity until the expiration of the term to which the member was appointed or until the member vacates office during that term.

(b) The offices of secretary and treasurer may be held by the same person. If either the secretary or treasurer is absent or unavailable, the other may act for and perform the duties of the absent or unavailable officer.

(c) The board shall hold regular meetings at times to be fixed by the board and may hold special meetings as necessary.

(d) The board may act on the vote of a majority of a quorum. (V.A.C.S. Art. 6079e, Sec. 5 (part).)

Sec. 320.026. EXPENSES. A park commissioner is entitled to compensation for all necessary expenses, including travel expenses, incurred in the performance of park commissioner duties. (V.A.C.S. Art. 6079e, Sec. 3 (part).)

Sec. 320.027. **CONFLICT OF INTEREST.** (a) A park commissioner or employee of the board may not acquire a direct or indirect pecuniary interest in any improvements, concessions, equipment, or business located in or related to a public park administered by the board.

(b) A park commissioner may not have a direct or indirect interest in a contract or proposed contract for construction, materials, or services in connection with or related to a park administered by the board. (V.A.C.S. Art. 6079e, Sec. 8.)

Sec. 320.028. **SEAL.** The board shall adopt a seal, and the seal shall be placed on each lease, deed, or other instrument usually executed under seal and on any other instrument as required by the board. (V.A.C.S. Art. 6079e, Sec. 5 (part).)

[Sections 320.029–320.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 320.041. **OPERATION AND MAINTENANCE OF PARKS.** (a) Subject to the supervision of the commissioners court, the board shall maintain and operate the parks under its administration.

(b) The commissioners court may transfer to a previously created board jurisdiction and control of one or more additional parks if the transfer will not impair the contract rights of the holders of any outstanding revenue bonds.

(c) The board shall exercise its powers and perform its duties in respect to the additional parks in a manner that will not infringe on the rights of the holders of outstanding revenue bonds. The board may not operate or maintain the additional parks in a manner that will compete with or reduce the revenues of park properties or facilities the income of which has been pledged to the payment of outstanding revenue bonds. (V.A.C.S. Art. 6079e, Secs. 9 (part), 18 (part).)

Sec. 320.042. **PERSONNEL.** (a) The board may employ permanent or temporary personnel, including secretaries, stenographers, bookkeepers, accountants, technical experts, and other agents.

(b) The board shall determine the qualifications, duties, and compensation of employees.

(c) The board may employ a manager for one or more parks. The board may give the manager full authority for the management and operation of parks, subject to the direction and orders of the board and the commissioners court. (V.A.C.S. Art. 6079e, Sec. 6.)

Sec. 320.043. **DEPOSITORIES AND DISBURSEMENTS; AUDITS.** (a) The commissioners court shall select one or more depositories for funds belonging to or under the control of the board other than bond proceeds or revenues and funds pledged to the payment of revenue bonds. The commissioners court shall select the depositories on the basis of competitive bids substantially in the manner provided by law for county funds. The deposits must be secured substantially in the manner and amount prescribed by law for county funds.

(b) The county auditor shall maintain a current audit of the board's funds and shall prepare monthly and annual audit reports. The reports shall be filed with the commissioners court and with the board and must be available for public inspection at all reasonable times during office hours on business days.

(c) A warrant or check for the withdrawal of board funds must be signed by an officer of the board or, if designated by an order or resolution of the board, by a bonded employee of the board, and must be countersigned by the county auditor.

(d) The board may disburse funds under its control for any lawful purpose for the benefit of a park under its control. (V.A.C.S. Art. 6079e, Secs. 7(a), (b), (c); 9 (part).)

Sec. 320.044. **CONTRACTS.** (a) The board may enter a contract, including a lease or other agreement, with any person as the board considers necessary or convenient to carry out the purposes and powers granted by this chapter, including a contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance,

or operation of a facility located or to be located in or pertaining to a park under its control.

(b) A contract may be on terms and conditions and for the length of time as agreed to by the board.

(c) To be effective, a contract must be:

- (1) authorized by order or resolution of the board;
- (2) executed by the board chairman or vice-chairman;
- (3) attested by the secretary or treasurer; and
- (4) approved by the commissioners court.

(d) A contract is binding on the board and the county without reference to any other law. (V.A.C.S. Art. 6079e, Secs. 9 (part), 10.)

Sec. 320.045. **RULES.** Subject to the approval of the commissioners court, the board may adopt reasonable rules concerning the use of any park administered by the board. (V.A.C.S. Art. 6079e, Sec. 11(a).)

Sec. 320.046. **GRANTS.** The board may accept grants and gratuities in any form and from any source approved by the board and the commissioners court, including the government of the United States, this state, a public or private corporation, or any other person, for the benefit of one or more parks administered by the board or for the use of the board with respect to one or more of those parks. (V.A.C.S. Art. 6079e, Sec. 11(b).)

Sec. 320.047. **FINANCIAL STATEMENT; BUDGET.** (a) On or immediately after January 1 of each year, the board shall prepare and file with the commissioners court a complete financial statement showing the financial status of the board and the properties, funds, and indebtedness under the administration of the board.

(b) The financial statement must show separately all information concerning:

- (1) revenue bonds;
- (2) the gross revenues from properties or facilities the net revenues of which are pledged to the payment of the revenue bonds and the expenditures from those gross revenues; and
- (3) money appropriated by the county for operation and maintenance expenses.

(c) At the same time the financial statement is filed with the commissioners court, the board shall file with the county auditor:

- (1) a copy of the financial statement; and
- (2) a proposed budget for the board's needs for the current calendar year.

(d) In counties subject to Subchapter B, Chapter 111, the county auditor shall include the proposed budget as part of the county budget prepared and submitted to the commissioners court.

(e) The board shall operate the properties and facilities the net revenues of which are pledged to the payment of revenue bonds in a manner that will produce gross revenues sufficient to pay the operation and maintenance expenses and all payments required under the bond order, so that it is unnecessary to appropriate tax money for the operation and maintenance or for the revenue bond payments. (V.A.C.S. Art. 6079e, Sec. 16.)

Sec. 320.048. **SUITS; LEGAL SERVICES.** (a) The board may sue and be sued in its own name.

(b) The county attorney shall perform all necessary legal services for the board. (V.A.C.S. Art. 6079e, Secs. 7(d), 11(c).)

Sec. 320.049. **RECORDS.** The board shall keep a complete account of each board meeting and proceeding and shall preserve its minutes, accounts, contracts, and other records in a fireproof vault or safe. The records are the property of the board and are subject to inspection by the commissioners court and other county officers at all reasonable times during office hours on business days. (V.A.C.S. Art. 6079e, Sec. 5 (part).)

Sec. 320.050. SUPERVISION BY COMMISSIONERS COURT. (a) Notwithstanding any other provision of this chapter, the board is subject to the supervision of the commissioners court in the exercise of all rights, powers, and privileges and in the performance of all duties.

(b) The commissioners court must approve all contracts, leases, deeds, and other agreements made or granted by the board. An appropriate entry in the minutes of the commissioners court is sufficient evidence of approval. (V.A.C.S. Art. 6079e, Sec. 4.)

[Sections 320.051–320.070 reserved for expansion]

SUBCHAPTER D. REVENUE BONDS

Sec. 320.071. ISSUANCE; PURPOSE. (a) For the purpose of providing funds to acquire, improve, equip, and repair any park administered by the board, or for the acquisition by construction or otherwise of any facilities to be used in or connected with or incident to such a park, the county may from time to time issue revenue bonds.

(b) The bonds are fully negotiable instruments under Chapter 3, Business & Commerce Code, and other laws of this state.

(c) Included among the properties, improvements, and facilities that may be acquired through the issuance of bonds are stadiums, coliseums, auditoriums, athletic fields, pavilions, and buildings and grounds for assembly, including parking facilities or other improvements incident to those facilities.

(d) The bonds must be authorized by an order adopted by the commissioners court.

(e) The bonds must be issued in the name of the county, signed by the county judge, attested by the county clerk, and impressed with the seal of the commissioners court. The signature of the county judge or the signature of the county clerk may be a facsimile signature, and the seal of the commissioners court may be a facsimile seal, as provided in the bond order. The interest coupons attached to the bonds may also be executed by facsimile signatures of officers. A facsimile signature or facsimile seal may be lithographed, engraved, or printed.

(f) Revenue bonds must mature serially or otherwise in not more than 40 years from their date or dates and may be sold by the commissioners court at a price and under terms determined by the court to be the most advantageous reasonably obtainable. The net effective interest rate may not exceed the maximum rate provided by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

(g) The bond order shall prescribe the details as to the bonds. It may contain provisions for the calling of the bonds for redemption before the respective maturity dates at particular prices and times. Except for rights of redemption expressly reserved in the bond order and in the bonds, the bonds are not subject to redemption before their scheduled maturity date or dates without the consent of the holder or holders.

(h) The bonds may be made payable at times and places in or outside this state, as prescribed in the bond order. The bonds may be nonregistrable or may be made registrable as to principal, or both principal and interest, as provided in the bond order.

(i) The bonds may be issued in one or more installments and in one or more series. (V.A.C.S. Art. 6079e, Secs. 12(a), (b).)

Sec. 320.072. ELECTION. (a) Revenue bonds may not be issued unless authorized by a majority vote of the qualified voters of the county voting at an election ordered for that purpose by the commissioners court.

(b) The election shall be ordered and held, and notice of the election shall be given, as provided by Chapter 1, Title 22, Revised Statutes, except that the ballot shall be printed to provide for voting for or against the proposition: "The issuance of \$_____ in park revenue bonds payable solely from revenues." (V.A.C.S. Art. 6079e, Sec. 12(h).)

Sec. 320.073. PLEDGE OF REVENUES. (a) Revenue bonds may be secured by a pledge of all or part of the net revenues from the operation of the parks or from the properties or facilities. The net revenues of any one or more contracts, operation

contracts, leases, or agreements may be pledged as the sole or as additional security for the support of the bonds.

(b) Any revenue other than tax revenues, as specified in the bond order, may be pledged for the support of the bonds.

(c) In the bond order, the county may reserve the right to issue additional revenue bonds that will be on a parity with, or subordinate to, the revenue bonds then being issued.

(d) While any of the revenue bonds are outstanding, other obligations may not be issued against the pledged revenues except to the extent and in the manner expressly permitted in the bond order.

(e) In this subchapter, "net revenues" means the gross revenues from the operation of those properties and facilities of the parks, the net revenues of which properties and facilities are pledged for the support of the bonds, after deduction of the necessary and reasonable expenses of operation and maintenance of the properties and facilities. (V.A.C.S. Art. 6079e, Secs. 12(c), (d), (g).)

Sec. 320.074. PROCEEDS. (a) The proceeds of the bonds shall be used under the restrictions provided in the bond order or in any separate escrow agreement, or both. The holders of the bonds and any trustee provided for in respect to the bonds have a lien on the proceeds until so applied.

(b) From the bond proceeds, there may be set aside:

(1) an amount for payment of interest on the bonds during construction and any additional period prescribed in the bond order; and

(2) an amount for the interest and sinking fund or for one or more separate reserve funds, as prescribed in the bond order, for the benefit of payment of the bonds.

(c) Proceeds remaining after the amounts are set aside under Subsection (b) shall be used for the payment of all expenses necessarily incurred in the sale, issuance, and delivery of the bonds and then for the purposes specified in the bond order and in the bonds.

(d) Any surplus remaining after accomplishment of the bond purposes shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices, with any remainder being deposited to the credit of the interest and sinking fund. (V.A.C.S. Art. 6079e, Secs. 12(e), 15(b).)

Sec. 320.075. APPROVAL AND REGISTRATION. (a) After any bonds have been authorized by the commissioners court, the bonds and the records relating to their issuance shall be submitted to the attorney general for examination and approval. The attorney general shall approve the bonds if issued in accordance with this subchapter.

(b) After the bonds have been approved by the attorney general, they shall be registered by the comptroller of public accounts.

(c) When the bonds have been approved by the attorney general, registered by the comptroller, and delivered to the purchasers, they are incontestable.

(d) If the bonds recite that they are secured partially or otherwise by a pledge of the proceeds of or income from any contract, including a lease or other agreement, a copy of the contract and of the records of the proceedings authorizing the contract may be submitted to the attorney general with the bond record. In that event, the approval of the bonds by the attorney general constitutes an approval of the contract, and the contract is incontestable except for forgery or fraud. (V.A.C.S. Art. 6079e, Sec. 12(i).)

Sec. 320.076. FEES AND REVENUE. (a) In this section, "fee" includes any fee, charge, or toll.

(b) The necessary and reasonable expenses of operation and maintenance of the properties and facilities whose revenues are pledged to the payment of the revenue bonds are a first lien on and charge against the income of the properties and facilities. While any of the bonds or interest remains outstanding, the board shall charge and require the payment of fees for the use of the properties and facilities. The board shall determine the rates of fees charged by it for the use, operation, or lease of the properties and

facilities. Fees must be equal and uniform within classes and must be in amounts that yield revenues at all times at least sufficient to pay the expenses of operation and maintenance, and to provide for the payments prescribed in the bond order for the establishment and maintenance of the funds provided for in the bond order, including the interest and sinking fund and each reserve fund. The bond order may make additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those properties and facilities, the income of which is pledged.

(c) The commissioners court shall ensure that the fees charged by the board are sufficient to comply with this subchapter. If for any reason the fees are not sufficient, the commissioners court shall impose additional fees so that the revenue will be sufficient.

(d) If any part of the security for the bonds consists of money to be received by the board as consideration for properties or facilities belonging to the county but operated by a person other than the board under a lease or operating contract, the board shall fix and authorize fees to be charged by the person for services rendered by the properties or facilities. The fees must be in amounts at least sufficient to assure receipt by the board of money that the board is committed to pay from that source for the benefit of the revenue bonds under the bond order. (V.A.C.S. Art. 6079e, Secs. 14, 15(a).)

Sec. 320.077. REFUNDING BONDS. (a) The commissioners court may issue fully negotiable revenue bonds for the purpose of refunding bonds issued under this subchapter. An election is not necessary for the issuance of refunding bonds.

(b) The refunding bonds may be secured in the manner provided by this subchapter for securing original revenue bonds.

(c) Refunding bonds may be issued to refund bonds of more than one series or issue of outstanding revenue bonds and may combine pledges for the outstanding bonds for the security of the refunding bonds. Refunding bonds may be secured by other and additional revenues if the refunding bonds will not impair the contract rights of the holders or any of the outstanding bonds that are not to be refunded.

(d) Refunding bonds must be authorized by order of the commissioners court and shall be executed and mature as provided by this subchapter for original bonds.

(e) Refunding bonds must bear interest at the same or lower rate than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

(f) Refunding bonds shall be approved by the attorney general as in the case of original bonds and shall be registered by the comptroller of public accounts on surrender and cancellation of the bonds to be refunded, unless the order authorizing issuance provides that the bonds are to be sold and the proceeds deposited in the place or places where the original bonds are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option or maturity date, and the comptroller shall register them without the surrender and cancellation of the original bonds.

(g) Refunding bonds, after they have been approved by the attorney general and registered by the comptroller, are incontestable. (V.A.C.S. Art. 6079e, Sec. 13.)

Sec. 320.078. BONDS NOT STATE OR COUNTY DEBT. (a) The revenue bonds are not a debt of the county or of the state but are payable solely from the revenues pledged to their payment.

(b) The principal of or interest on revenue bonds or any refunding bonds is not a debt against the tax revenues of the county but is solely a charge on the pledged revenues.

(c) The revenue bonds or refunding bonds may not be considered in determining the power of the county to incur obligations payable from taxation.

(d) Each bond must contain on its face substantially the following provision: "The holder hereof shall never have the right to demand payment of his obligation out of any funds raised or to be raised by taxation." (V.A.C.S. Art. 6079e, Sec. 12(f).)

Sec. 320.079. MISCELLANEOUS PROVISIONS. (a) This section applies to revenue bonds and refunding bonds issued under this subchapter.

(b) The bond order may require that the bonds contain a recital to the effect that they are issued pursuant to and in strict conformity with this subchapter. That recital is conclusive evidence of the validity of the bonds and the regularity of their issuance.

(c) Each bond is exempt from taxation by this state or by a municipal corporation, county, or other political subdivision or taxing district or entity of the state.

(d) If provided for in the bond order, an indenture securing the bonds may be entered into between, and executed by, the county and a corporate trustee, or entered into between, and executed by, the county and a corporate trustee and a corporate or individual cotrustee. A corporate trustee or corporate cotrustee must be a trust company or bank in or outside this state that has the powers of a trust company.

(e) The bond order or any indenture may:

(1) contain provisions for protecting or enforcing the rights or remedies of the bondholders as the commissioners court considers reasonable and proper and not in violation of law, including covenants setting forth the duties of the county and the board in reference to maintenance, operation, repair, and insurance (including insurance against loss of use and occupancy) of the properties or facilities whose revenues are pledged, and the custody, safeguarding, and application of the bond proceeds and of the revenues to be received from the operation of the properties or facilities;

(2) provide for the flow of funds and the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and other funds; and

(3) include additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those properties and facilities the income of which is pledged, as the commissioners court considers appropriate.

(f) Any bank or trust company in this state may act as depository for the proceeds obtained from the sale of the bonds. The depository shall be selected by the commissioners court without the necessity of seeking competitive bids and without reference to any other statute. The money deposited must be secured in the manner and amount as prescribed by the commissioners court or by the bond order, indenture, or separate escrow agreement.

(g) The bond order shall provide for and designate the depository or depositories of the interest and sinking fund, reserve fund or funds, and any other funds established by the order. The depository or depositories may be any bank or trust company in or outside this state and may be selected and designated without the necessity of seeking competitive bids and without reference to any other statute. The money in those funds must be secured in the manner and to the extent as provided in the bond order, and the bond order may require that the money be secured by direct obligations of the United States or obligations unconditionally guaranteed by the United States.

(h) The bond order or indenture may:

(1) set forth the rights and remedies of the bondholders and of the trustee, and may, subject to Subsection (i), restrict the individual rights of action of the bondholders; and

(2) set forth and contain other provisions and covenants as considered reasonable and proper for the security of the bondholders, including:

(A) provisions prescribing occurrences that constitute events of default and the terms and conditions on which any or all of the bonds become due, or may be declared to be due, before maturity; and

(B) provisions as to the rights, liabilities, powers, and duties arising from the breach by the board or by the commissioners court of any of its duties or obligations.

(i) Any holders of the bonds or of interest coupons originally attached to the bonds may either at law or in equity, by suit, action, mandamus, or other proceeding, enforce and compel performance of all duties required by this subchapter to be performed by the board or by the commissioners court, including:

(1) the making and collection of reasonable and sufficient fees, charges, and tolls for the use of the properties and facilities the income of which is pledged;

(2) the segregation of the income and revenues of such properties and facilities; and

(3) the application of the income and revenues pursuant to the bond order, indenture, and this subchapter.

(j) The bond order or the indenture may contain provisions to the effect that while any bonds are outstanding either as to principal or interest, no free service may be rendered by any of the properties or facilities the income of which is pledged.

(k) The bonds are negotiable instruments under Chapter 3, Business & Commerce Code, and are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of municipalities, counties, school districts, and other political subdivisions or corporations of this state. The bonds are eligible to secure the deposit of public funds of this state and of a municipality, county, school district, or other political subdivision or corporation of this state. The bonds are lawful and sufficient security for those deposits to the extent of their face value when accompanied by all unmatured appurtenant coupons.

(l) The bond order, the indenture, and this subchapter constitute an irrevocable contract between the board and commissioners court and the holders of the bonds. (V.A.C.S. Art. 6079e, Sec. 15 (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m).)

CHAPTER 321. PARKS BOARD AND PARK BONDS: ISLAND PARKS OF COASTAL COUNTIES

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CHAPTER 321. PARKS BOARD AND PARK BONDS: ISLAND PARKS OF COASTAL COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 321.001. ELIGIBLE COUNTIES. (a) A county that borders on the Gulf of Mexico and that has within its boundaries one or more islands or parts of islands suitable for park purposes may act under this chapter for the purpose of improving, equipping, maintaining, financing, and operating one or more parks on those islands.

(b) The suitability of an island or part of an island for park purposes is conclusively established when the commissioners court of the county by order makes a finding that the island or part of an island is suitable for park purposes. (V.A.C.S. Art. 6079c, Secs. 1, 2 (part).)

Sec. 321.002. DEFINITION. In this chapter, “board” means the board of park commissioners. (V.A.C.S. Art. 6079c, Sec. 2 (part).)

Sec. 321.003. CREATION OF PARKS BOARD. The commissioners court by order may create a board to be known as the Board of Park Commissioners. (V.A.C.S. Art. 6079c, Sec. 2 (part).)

Sec. 321.004. EXERCISE OF POWERS BY COMMISSIONERS COURT. (a) If the commissioners court has not attempted to create a board, or if the creation of a board is declared by a court to be invalid, the commissioners court may exercise the powers and perform the duties of the board under this chapter. The commissioners court may ratify the actions taken by a board before the declaration of the board’s invalidity.

(b) This section does not authorize the commissioners court to limit or restrict the board from exercising the powers conferred on the board by law. (V.A.C.S. Art. 6079c, Sec. 21.)

[Sections 321.005–321.020 reserved for expansion]

SUBCHAPTER B. BOARD OF PARK COMMISSIONERS

Sec. 321.021. COMPOSITION; TERM; QUALIFICATIONS. (a) The board must be composed of seven commissioners appointed by the county judge with the approval of the commissioners court.

(b) A commissioner serves for a term of two years from the date of appointment.

(c) A park commissioner may not be an officer or employee of the county or of a municipality in the county. (V.A.C.S. Art. 6079c, Sec. 3 (part).)

Sec. 321.022. VACANCY. A vacancy on the board shall be filled by appointment of the county judge for the unexpired term. (V.A.C.S. Art. 6079c, Sec. 3 (part).)

Sec. 321.023. OATH; BOND. (a) Within 15 days after the date a park commissioner is appointed, the commissioner must qualify by taking the official oath and by filing a good and sufficient bond with the county clerk.

(b) The bond must be:

- (1) payable to the order of the county judge;
 - (2) approved by the commissioners court;
 - (3) in an amount prescribed by the commissioners court of \$5,000 or more; and
 - (4) conditioned that the commissioner will faithfully perform the duties of park commissioner, including the proper handling of money that comes into the hands of the commissioner in the commissioner's capacity as park commissioner.
- (c) The board shall pay the cost of the bond. (V.A.C.S. Art. 6079c, Sec. 4.)

Sec. 321.024. **CERTIFICATE OF APPOINTMENT.** A certificate of appointment executed by the county judge and attested by the county clerk shall be filed with the county clerk. The certificate is conclusive evidence of the proper appointment of the commissioner. (V.A.C.S. Art. 6079c, Sec. 3 (part).)

Sec. 321.025. **ORGANIZATION; MEETINGS.** (a) The board shall elect from its membership a chairman, vice-chairman, secretary, and treasurer, except that the first chairman shall be designated by the county judge at the time of appointment of the first board. The member designated as the first chairman serves in that capacity until the expiration of the term to which the member was appointed or until the member vacates office during that term.

(b) The offices of secretary and treasurer may be held by the same person. If either the secretary or treasurer is absent or unavailable, the other may act for and perform the duties of the absent or unavailable officer.

(c) The board shall hold regular meetings at times to be fixed by the board and may hold special meetings as necessary.

(d) The board may act on the majority vote of a quorum. (V.A.C.S. Art. 6079c, Sec. 5 (part).)

Sec. 321.026. **EXPENSES.** A park commissioner's approved compensation and expenses shall be paid in due time by the board's check or warrant. (V.A.C.S. Art. 6079c, Sec. 3 (part).)

Sec. 321.027. **CONFLICT OF INTEREST.** (a) A park commissioner or employee of the board may not acquire a direct or indirect pecuniary interest in any improvements, concessions, equipment, or business located in a park administered by the board.

(b) A park commissioner or employee of the board may not have a direct or indirect interest in any contract or proposed contract for construction, materials, or services in connection with or related to a park administered by the board. (V.A.C.S. Art. 6079c, Sec. 7.)

Sec. 321.028. **SEAL.** The board shall adopt a seal, and the seal shall be placed on each lease, deed, or other instrument usually executed under seal and on other instruments as required by the board. (V.A.C.S. Art. 6079c, Sec. 6 (part).)

[Sections 321.029–321.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 321.041. **PERSONNEL.** (a) The board may employ permanent or temporary personnel, including secretaries, stenographers, bookkeepers, accountants, technical experts, and other agents.

(b) The board shall determine the qualifications, duties, and compensation of employees.

(c) The board may employ a manager for one or more parks and give the manager full authority for the management and operation of the parks subject only to the direction and orders of the board. (V.A.C.S. Art. 6079c, Sec. 6 (part).)

Sec. 321.042. **DEPOSITORIES AND DISBURSEMENTS.** (a) Money belonging to or under control of the board shall be deposited and secured in substantially the manner prescribed by law for county funds.

(b) The board shall select one or more depositories.

(c) A warrant or check for the withdrawal of money must be signed by an officer of the board and one other commissioner or by two bonded employees of the board. The board by resolution entered in its minutes shall designate any employees authorized to sign a check or warrant.

(d) The board may disburse funds under its control for any lawful purpose for the benefit of a park under its control. (V.A.C.S. Art. 6079c, Secs. 5 (part), 6 (part), 9 (part).)

Sec. 321.043. **CONTRACTS.** (a) The board may without advertisement enter into a contract, including a lease or other agreement, with any person as the board considers necessary or convenient to carry out the purposes and powers granted by this chapter, including a contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance, or operation of a facility located or to be located in or pertaining to a park under its control.

(b) To be effective, a contract must be:

- (1) approved by resolution of the board;
- (2) executed by the chairman or vice-chairman; and
- (3) attested by the secretary or treasurer. (V.A.C.S. Art. 6079c, Secs. 9 (part), 10.)

Sec. 321.044. **LEASES AND OPERATING AGREEMENTS.** (a) Concurrent with or at any time before the authorization for issuance of bonds secured by a pledge of the revenues of a designated facility of a park, the board may enter into a contract, including a lease, with any person for the operation of the facility. The contract must specify the consideration or specify the method of determining the consideration. The contract may be for a period determined by the board.

(b) The revenues from the contract may be pledged in the resolution or indenture as security or additional security for the revenue bonds. If the contract is concurrent with the authorization for issuance of the bonds, the revenues constitute the sole or substantially all the security for the bonds.

(c) The contract must require that the rentals, tolls, and charges to be enforced by the lessee for the use or services provided by the facility be sufficient to yield at least in the aggregate money necessary to pay the reasonable operation and maintenance expenses to assure proper operation and maintenance of the facility, plus an amount that will assure income to the board to permit and assure payments into the funds and accounts in the manner, at the times, and in the amounts specified in the resolution.

(d) The contract may provide that the rentals, tolls, and charges may be sufficient to yield a reasonable profit to the other party to the contract, but to be realized only after payment in full of the obligation to the board.

(e) The contract may provide for payment of the annual consideration or rental in approximately equal monthly installments, and that failure to pay any required payment when due may be declared to be a breach of contract entitling the board under rules prescribed in the contract to declare the contract forfeited and to take over the operation and maintenance of the facility. That remedy is cumulative of all others. (V.A.C.S. Art. 6079c, Sec. 16.)

Sec. 321.045. **RULES.** The board may adopt reasonable rules applicable to tenants, concessioners, residents, and users of park facilities regulating hunting, fishing, boating, camping, and all other recreational and business privileges in the parks under the control of the board. (V.A.C.S. Art. 6079c, Sec. 18.)

Sec. 321.046. **GRANTS.** The board may accept grants and gratuities in any form from any source approved by the board, including the government of the United States, this state, a public or private corporation, or any other person, for the purpose of promoting, establishing, or accomplishing the objectives, purposes, and powers provided by this chapter. (V.A.C.S. Art. 6079c, Sec. 19.)

Sec. 321.047. **FINANCIAL STATEMENT; BUDGET.** (a) On or before July 1 of each year, the board shall prepare and file with the county judge a complete financial statement showing the financial status of the board and the board's properties, funds, and indebtedness.

(b) The financial statement must be in two parts or prepared to show separately all information concerning:

(1) revenue bonds, the pledged income from facilities, and expenditures of that revenue; and

(2) money appropriated to the board by the commissioners court and realized from taxation and money realized from the sale of tax-supported bonds previously issued by the commissioners court.

(c) At the same time the financial statement is filed, the board shall file with the county judge a proposed budget of its needs for the next calendar year. To the extent that the board is able to finance its operations and to maintain its property from the revenues of facilities the income of which is pledged to the revenue bonds, no approval or authorization of the commissioners court is necessary. However, the budget may involve only anticipated supplemental expenditures.

(d) The county judge shall incorporate the requested budget in the county budget to be prepared each year. As part of the county's tentative budget, the items certified by the board are subject to the procedure for county budget prescribed by Chapter 111.

(e) The board shall operate the parks under its control the revenues of which are pledged to the payment of bonds in a manner that will produce gross revenues sufficient to pay the operation and maintenance expenses of the facilities without seeking from the commissioners court the appropriation of additional money for those expenses. (V.A.C.S. Art. 6079c, Sec. 17.)

Sec. 321.048. SUITS; LEGAL SERVICES. (a) The board may sue and be sued in its own name.

(b) The board may request from the county attorney the legal services it requires. In addition or in the alternative, the board may employ and compensate its own legal staff. (V.A.C.S. Art. 6079c, Secs. 6 (part), 11.)

Sec. 321.049. RECORDS. The board shall keep a complete account of each board meeting and proceeding and shall preserve its minutes, contracts, accounts, and other records in a fireproof vault or safe. Those records are the property of the board and are subject to inspection by the commissioners court at all reasonable times during office hours on business days. (V.A.C.S. Art. 6079c, Sec. 8.)

[Sections 321.050–321.070 reserved for expansion]

SUBCHAPTER D. REVENUE BONDS

Sec. 321.071. ISSUANCE; PURPOSE. (a) For the purpose of providing funds for the acquisition of permanent improvements to the island parks, or for the acquisition or construction of facilities to be used in or connected with or incident to the parks, the county may issue revenue bonds from time to time.

(b) The bonds are fully negotiable instruments under Chapter 3, Business & Commerce Code, and other laws of this state.

(c) Included among the permanent improvements and facilities that may be acquired through the issuance of bonds are bath houses; bathing beaches; swimming pools; athletic fields; golf courses; stadiums; coliseums; auditoriums; pavilions; buildings and grounds for assembly, entertainment, health, and recreation; restaurants and refreshment places; yacht basins; and landing strips and airports.

(d) The bonds must be authorized by order of the commissioners court passed on its own motion. The order of the commissioners court may make covenants on behalf of the county as the court considers necessary and advisable, and the court shall perform or cause to be performed any covenants so made.

(e) The bonds must be issued in the name of the county, signed by the county judge, attested by the county clerk, and impressed with the seal of the commissioners court.

(f) The bonds must mature serially or otherwise in not more than 40 years and may be sold at a price and under terms determined by the county to be the most advantageous reasonably obtainable. The net effective interest rate may not exceed the maximum rate

provided by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

(g) The order authorizing the issuance of the bonds shall prescribe the details as to the bonds. It may contain provisions for the calling of the bonds for redemption before their respective maturity dates at particular prices and times. Except for rights of redemption expressly reserved in the order and the bonds, the bonds are not subject to redemption before their scheduled maturity dates.

(h) The bonds may be made payable at times and places inside or outside this state as prescribed in the order.

(i) The bonds may be made registrable as to principal or both principal and interest.

(j) The bonds may be issued in one or more series.

(k) An election is not required for issuance of the bonds. (V.A.C.S. Art. 6079c, Secs. 12(a), (b); 12a; 13 (part).)

Sec. 321.072. PLEDGE OF REVENUES. (a) Revenue bonds may be secured by a pledge of all or part of the net revenues from the operation of one or more parks under control of the board, from the facilities of or incident to the parks, or from the parks and the facilities.

(b) The net revenues of one or more contracts, operating contracts, leases, or agreements may be pledged as the sole security or as additional security for the support of the bonds.

(c) Any revenue other than that described by Subsection (a) or (b) may be pledged as the principal or as additional security for the bonds, as specified in the order.

(d) The order authorizing issuance of bonds may reserve the right, under conditions specified in the order, to issue additional bonds that will be on a parity with or subordinate to the bonds then being issued.

(e) While any bonds are outstanding, no additional bonds of equal dignity may be issued against the pledged revenues except to the extent and in the manner expressly permitted in the order.

(f) In this chapter, "net revenues" means the gross revenues from the operation of the park or parks and the facilities, leases, agreements, or contracts incident to the park or parks, the revenues of which have been pledged, after deduction of the necessary expenses as provided by Section 321.075. (V.A.C.S. Art. 6079c, Secs. 12(c), (d), (g).)

Sec. 321.073. PROCEEDS. (a) The proceeds of the bonds shall be used under the restrictions provided in the order. The holders of the bonds and any trustee provided for in respect to the bonds have a lien on the proceeds until so applied, but neither the depository of those funds nor the trustee is obligated to see to the proper application of the funds except as expressly provided in the order or the indenture securing the bonds.

(b) From the bond proceeds there may be set aside:

(1) an amount for payment of interest on the bonds estimated to accrue during the construction period and any additional period prescribed in the order; and

(2) an amount for the interest and sinking fund or another reserve fund provided for in the order.

(c) Proceeds remaining after the amounts are set aside under Subsection (b) shall be used for the payment of all expenses necessarily incurred in the issuance and sale of the bonds and then for the purposes specified in the bond order and in this chapter.

(d) Any surplus remaining after accomplishment of the bond purposes shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices, with any remainder being deposited to the credit of the fund established in the order for debt service. (V.A.C.S. Art. 6079c, Secs. 12(e), 15(b).)

Sec. 321.074. APPROVAL AND REGISTRATION. (a) Before the bonds are delivered to the purchaser, the bonds and the records pertaining to the bonds must be submitted to the attorney general for examination and approval. The attorney general shall approve the bonds if issued in accordance with this subchapter.

(b) Bonds approved by the attorney general and registered with the comptroller of public accounts are incontestable. (V.A.C.S. Art. 6079c, Sec. 12(h).)

Sec. 321.075. FEES AND REVENUE. (a) In this section, “fee” includes any fee, charge, or toll.

(b) The expense of operation and maintenance of facilities the revenues of which are pledged to the payment of bonds are a first lien on and charge against the income of the facilities. While any of the bonds or interest remains outstanding, the board shall charge or require the payment of fees for the use of the facilities. The board shall determine the rate of fees charged by it for the use, operation, or lease of the facilities. Fees must be equal and uniform within the classes defined by the board and must be in amounts that will yield revenues at least sufficient to pay the expenses of operation and maintenance and to make the payment prescribed in the order for debt service. “Debt service,” as defined in the order, may include the payment of principal and interest as each matures, the establishment and maintenance of funds for extensions and improvements, an operating reserve, and an interest and sinking fund reserve.

(c) The board shall fix the fees in amounts that are sufficient to comply with the covenants in the order and with this chapter.

(d) If part of the security for the bonds consists of money to be received by the board as consideration for facilities belonging to the board but operated by a person other than the board under a lease or operating contract, the board shall fix the fees to be charged by the person for use of and services rendered by the facilities. The fees must be in amounts at least sufficient to assure receipt by the board of money that the board is committed to pay from that source for debt service under the terms of the order. (V.A.C.S. Art. 6079c, Secs. 14, 15(a).)

Sec. 321.076. REFUNDING BONDS. (a) Fully negotiable bonds may be issued by the commissioners court for the purpose of refunding original bonds issued under this subchapter.

(b) The refunding bonds must be authorized and may be secured in the manner provided by this subchapter for original bonds.

(c) Refunding bonds may be sold and the proceeds used to retire the original bonds, or may be used in exchange for the original bonds, as provided in the order authorizing their issuance.

(d) An election is not required for issuance of the refunding bonds. (V.A.C.S. Art. 6079c, Sec. 13 (part).)

Sec. 321.077. BONDS NOT STATE OR COUNTY DEBT. (a) The bonds are not a debt of the county or this state within the meaning of any constitutional or statutory provision, but are payable solely from the revenues pledged to their payment as provided by this subchapter.

(b) Each bond must contain on its face substantially the following provision: “The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.”

(c) The bonds may not be considered in determining the power of the county to incur obligations payable from taxation. (V.A.C.S. Art. 6079c, Sec. 12(f).)

Sec. 321.078. MISCELLANEOUS PROVISIONS. (a) In this section, “fee” includes a fee, charge, or toll.

(b) This section applies to revenue bonds issued under this subchapter.

(c) The bond order may require that the bonds contain a recital that they are issued pursuant to and in strict conformity with this subchapter. If made, that recital is conclusive evidence of the validity of the bonds and the regularity of their issuance.

(d) Each bond is exempt from taxation by this state or by a municipal corporation, county, or other political subdivision or taxing district of the state.

(e) If provided for in the order, an indenture securing the bonds may be executed between the county commissioners court and a corporate trustee. The order may also provide for execution of the indenture by a corporate or individual cotrustee. A corporate

trustee or corporate cotrustee must be a trust company or a bank located inside or outside this state that has the powers of a trust company.

(f) Either the order or an indenture may contain provisions for protecting or enforcing the rights or remedies of the bondholders as considered by the commissioners court to be reasonable, proper, and not in violation of law. The provisions may include covenants setting forth the duties of the board in reference to the maintenance, operation or repair, and insurance of the facility the revenues of which are pledged, including within the discretion of the commissioners court insurance against loss of use and occupancy. The provisions may also include covenants for the custody, safeguarding, and application of money received from the sale of the bonds and from the revenues received from the operation of the project.

(g) Any bank or trust company in this state may act as depository for the proceeds of the bonds, the revenues derived for operation of the facilities the revenues of which are pledged, or for the special funds created to assure payment of the principal of and interest on the bonds, including reserve funds and accounts. The depository may furnish indemnity bonds or pledge securities as required by the board.

(h) The commissioners court may select the depository or depositories without the necessity of seeking competitive bids. The deposits must be secured in the manner required by law for the security of county funds. The order or indenture may bind the commissioners court to the use of direct obligations of the United States or obligations unconditionally guaranteed by the United States as security for the deposits.

(i) The bond order or indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual rights of action of the bondholders. The order may contain other suitable provisions the commissioners court considers reasonable and proper for the security of the bondholders, including:

(1) covenants prescribing occurrences that constitute events of default and the terms and conditions on which any or all of the bonds become due, or may be declared to be due, before maturity; and

(2) covenants as to the rights, liabilities, powers, and duties arising from the breach by the commissioners court of any of its duties or obligations.

(j) Any bondholder or a trustee for a bondholder may by mandamus or other proceeding in a court of competent jurisdiction enforce the bondholder's rights against the commissioners court or its agents and employees or against any lessee of any facility the revenues of which are pledged to the bonds. These rights include the right to require the board to impose, establish, and enforce fees sufficient and effective to carry out the agreements contained in the order or indenture, the right to perform all agreements and covenants in the order and the duties arising from the order or indenture, and the right in the event of default as defined in the order or indenture to apply for and obtain the appointment of a receiver for any of the properties involved. If a receiver is appointed, the receiver shall enter and take possession of the facilities the revenues of which have been pledged. The receiver shall retain possession until the commissioners court is no longer in default or until relieved by a court, and shall collect and receive all revenues and fees arising from the retained property in the same manner as the commissioners court. The receiver shall dispose of and apply the money in accordance with the obligations of the commissioners court under the order or indenture and as the court may direct.

(k) This chapter does not authorize a bondholder to require the commissioners court to use any funds in the payment of the principal of or interest on the bonds except the revenues pledged for that payment.

(l) The order or indenture may contain provisions to the effect that while the revenues of the park facilities are pledged to the payment of bonds, no free service may be rendered by any of those facilities for which fees are to be effective under the order.

(m) The bonds are legally authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, and trustees and for the sinking funds and other funds of this state or of a municipal corporation, county, political subdivision, public agency, or taxing district in this state. The bonds are eligible to secure the deposit of any public funds of this state and any public funds of a

municipal corporation, county, political subdivision, public agency, or taxing district in this state, and the bonds are lawful and sufficient security for those deposits to the extent of their face value when accompanied by all unmatured appurtenant coupons.

(n) The order, the indenture, and this chapter constitute an irrevocable contract between the board and county and the bondholders. (V.A.C.S. Art. 6079c, Sec. 15(e), (d), (e), (f), (g), (h), (i), (j), (k), (l).)

CHAPTER 322. JOINT PARKS BOARD AND PARK BONDS: ADJACENT
COUNTIES WITH POPULATIONS OF 350,000 OR MORE

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CHAPTER 322. JOINT PARKS BOARD AND PARK BONDS: ADJACENT
COUNTIES WITH POPULATIONS OF 350,000 OR MORE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 322.001. ELIGIBLE COUNTIES. Two adjacent counties that each have a population of 350,000 or more may create a joint park board in accordance with this chapter for the purpose of providing one or more public parks for the two counties. (V.A.C.S. Art. 6079f, Secs. 1, 2 (part).)

Sec. 322.002. DEFINITION. In this chapter, "board" means the Joint Board of Park Commissioners. (V.A.C.S. Art. 6079f, Sec. 2 (part).)

Sec. 322.003. CREATION OF JOINT PARKS BOARD. (a) To create a joint parks board, the commissioners court of each county must adopt an order creating the board.

(b) The commissioners court of each county by resolution may transfer to the board jurisdiction and control of any county park within either or both of the counties.

(c) Title to the parks under its jurisdiction and to the properties and facilities related to the parks vests in the board.

(d) The board shall be known as the Joint Board of Park Commissioners, except that the board may change its name by resolution. (V.A.C.S. Art. 6079f, Secs. 2 (part), 11 (part), 20(a); Sec. 9, Ch. 419, Acts 57th Leg., R.S., 1961.)

Sec. 322.004. MUNICIPAL CONVEYANCE OF LAND TO BOARD. Any municipality contained in either of the counties may sell land owned by it to the board or to the counties if the governing body of the municipality finds that the land is not required for municipal purposes. The sale must be authorized by ordinance and does not require an election. (V.A.C.S. Art. 6079f-1, Secs. 1, 2.)

Sec. 322.005. EXERCISE OF POWERS BY COMMISSIONERS COURT. If establishment of the board is declared by a court to be invalid, the commissioners court of the counties acting jointly may ratify any prior action taken by the board and may exercise the powers granted to the board by this chapter. (V.A.C.S. Art. 6079f, Sec. 20(b).)

[Sections 322.006–322.020 reserved for expansion]

SUBCHAPTER B. JOINT BOARD OF PARK COMMISSIONERS

Sec. 322.021. COMPOSITION; TERM; QUALIFICATIONS. (a) The board must be composed of 13 commissioners appointed by the governor with the advice and consent of the senate. The governor shall appoint the chairman from one county and six members from each county.

(b) Members of the board serve staggered terms of two years, with the terms of six or seven members expiring every other year. In appointing the initial board, the governor shall designate three of the members appointed from each county to serve for terms of one year and three of the members appointed from each county to serve for terms of two years.

(c) The term as chairman is two years, and the chairmanship of the board alternates between the counties every two years. The governor shall appoint the first chairman from the county having the larger population.

(d) A park commissioner may not be an officer or employee of either of the counties or an officer or employee of any municipality in either of the counties. (V.A.C.S. Art. 6079f, Sec. 3 (part).)

Sec. 322.022. VACANCY. A vacancy on the board shall be filled by appointment by the governor. (V.A.C.S. Art. 6079f, Sec. 3 (part).)

Sec. 322.023. OATH; BOND. (a) Within 15 days after the date a park commissioner is appointed, the commissioner must qualify by taking the official oath and by filing a good and sufficient bond with the county clerk of the county the commissioner represents.

(b) The bond must be:

(1) payable to the order of the county judge of the county that the commissioner represents;

(2) approved by the commissioners court of that county;

(3) in an amount prescribed by that commissioners court of \$5,000 or more; and

(4) conditioned that the commissioner will faithfully perform the duties of park commissioner, including the proper handling of all money that comes into the hands of the park commissioner in the commissioner's capacity as park commissioner.

(c) The board shall pay the cost of the bond. (V.A.C.S. Art. 6079f, Sec. 4.)

Sec. 322.024. ORGANIZATION; MEETINGS. (a) Seven park commissioners constitute a quorum, except that three of the members comprising the quorum must be from each county. The board may act on the majority vote of a quorum.

(b) The board shall elect from its membership a vice-chairman, a secretary, and a treasurer. The vice-chairman and chairman must be from different counties, and the secretary and treasurer must be from different counties. Officers serve in that capacity for a term of two years.

(c) If either the secretary or treasurer is absent or unavailable, the other may act for the absent or unavailable officer.

(d) The board shall hold regular meetings at times fixed by the board and may hold special meetings as necessary. (V.A.C.S. Art. 6079f, Sec. 5 (part).)

Sec. 322.025. EXPENSES. The expenses of a commissioner must be approved by the commissioners court of the county the commissioner represents, and when approved must be paid in due time by the board's check or warrant. (V.A.C.S. Art. 6079f, Sec. 3 (part).)

Sec. 322.026. CONFLICT OF INTEREST. (a) A park commissioner or employee of the board may not acquire a direct or indirect pecuniary interest in any improvements, concessions, equipment, or business located in or related to a public park administered by the board.

(b) A park commissioner or employee of the board may not have a direct or indirect interest in any contract or proposed contract for construction, materials, or services in connection with or related to a park administered by the board. (V.A.C.S. Art. 6079f, Sec. 7.)

Sec. 322.027. SEAL. The board shall adopt a seal, and the seal shall be placed on each lease, deed, or other instrument required to be executed under seal. (V.A.C.S. Art. 6079f, Sec. 6 (part).)

[Sections 322.028–322.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 322.041. PERSONNEL. (a) The board may employ permanent or temporary personnel, including secretaries, stenographers, bookkeepers, accountants, technical experts, and other agents.

(b) The board shall determine the qualifications, duties, and compensation of employees.

(c) The board may employ a manager for one or more parks and give the manager full authority for the management and operation of the parks subject only to the direction and orders of the board. (V.A.C.S. Art. 6079f, Sec. 6 (part).)

Sec. 322.042. DEPOSITORIES AND DISBURSEMENTS. (a) Money belonging to or under the control of the board must be deposited and secured substantially in the manner prescribed by law for county funds.

(b) The board shall select one or more depositories.

(c) A warrant or check for the withdrawal of money must be signed by an officer of the board and one other park commissioner or by two bonded employees of the board. The board by resolution entered in its minutes shall designate the officer and park commissioner or the employees authorized to sign the warrants or checks.

(d) The board may disburse funds under its control for any lawful purpose for the benefit of a park under its control. (V.A.C.S. Art. 6079f, Secs. 5 (part), 6 (part), 9 (part).)

Sec. 322.043. **CONTRACTS.** (a) The board may enter a contract, including a lease or other agreement, with any person as the board considers necessary or convenient to carry out the purposes and powers granted by this chapter, including a contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance, or operation of a facility located or to be located in or pertaining to a park under its control.

(b) To be effective, a contract must be:

- (1) approved by resolution of the board;
- (2) executed by the chairman or vice-chairman; and
- (3) attested by the secretary or treasurer. (V.A.C.S. Art. 6079f, Secs. 9 (part), 10.)

Sec. 322.044. **LEASES AND OPERATING AGREEMENTS.** (a) Concurrent with or at any time before the authorization for issuance of bonds secured by a pledge of the revenues of a designated facility of a park, the board may enter a contract, including a lease, with any person for the operation of the facility. The contract must specify the consideration or specify the method of determining the consideration. The contract may be for a period determined by the board.

(b) The revenues from the contract may be pledged in the resolution or indenture as security or additional security for the revenue bonds. If the contract is concurrent with the authorization for issuance of the bonds, the revenues constitute security for the bonds.

(c) The contract must require that the rentals, tolls, and charges to be enforced by the lessee for the use or services provided by the facility be sufficient to at least yield in the aggregate money necessary to pay the reasonable operation and maintenance expenses to assure proper operation and maintenance of the facility, plus an amount that will assure income to the board to permit and assure payments into the funds and accounts in the manner, at the times, and in the amounts specified in the resolution.

(d) The contract may provide that the rentals, tolls, and charges may be sufficient to yield a reasonable profit to the other party to the contract, but to be realized only after payment in full of the obligation to the board.

(e) The contract may provide for payment of the annual consideration or rental in approximately equal monthly installments, and that failure to pay any required payment when due may be declared to be a breach of contract, entitling the board under rules prescribed in the contract to declare the contract forfeited and to take over the operation and maintenance of the facility. That remedy is cumulative of all others.

(f) The board may in the resolution or trust indenture reserve the right to enter such a contract after issuance of the bonds. (V.A.C.S. Art. 6079f, Sec. 16.)

Sec. 322.045. **RULES.** The board may adopt reasonable rules applicable to tenants, concessionaires, residents, and users of park facilities, regulating hunting, fishing, boating, camping, and other recreational and business privileges in parks under the control of the board. (V.A.C.S. Art. 6079f, Sec. 18.)

Sec. 322.046. **GRANTS.** The board may accept grants and gratuities in any form from any source approved by the board, including the government of the United States, this state, the commissioners court of either county or an agency of either county, a public or private corporation, or any other person, for the purpose of promoting, establishing, or accomplishing the objectives, purposes, and powers provided by this chapter. (V.A.C.S. Art. 6079f, Sec. 19.)

Sec. 322.047. **FINANCIAL STATEMENT; BUDGET.** (a) On or before July 1 of each year, the board shall prepare and file with the county clerk of each of the counties a complete financial statement showing the financial status of the board and the board's properties, funds, and indebtedness.

(b) The financial statement must show separately all information concerning:

- (1) revenue bonds;

(2) income from facilities the income of which is pledged to the bonds, and the expenditures from that income; and

(3) money appropriated to the board by the commissioners courts for operational and maintenance expenses.

(c) At the same time the financial statement is filed, the board shall file with the county clerk of each of the counties a proposed budget of its needs for the next calendar year.

(d) The board shall operate the parks under its control, the revenues of which are pledged to the payment of bonds, in a manner that will produce gross revenues sufficient to pay the operation and maintenance expenses of the facilities. (V.A.C.S. Art. 6079f, Sec. 17.)

Sec. 322.048. SUITS. The board constitutes a body corporate and politic and may sue and be sued in its own name. (V.A.C.S. Art. 6079f, Sec. 11 (part).)

Sec. 322.049. NO TAXING POWER. The board may not levy a tax for any purpose. (V.A.C.S. Art. 6079f, Sec. 11 (part).)

Sec. 322.050. RECORDS. The board shall keep a complete account of each board meeting and proceeding and shall preserve its minutes, contracts, accounts, and other records in a fireproof vault or safe. Those records are the property of the board and are subject to inspection by either of the commissioners courts at all reasonable times during office hours on business days. (V.A.C.S. Art. 6079f, Sec. 8.)

[Sections 322.051–322.070 reserved for expansion]

SUBCHAPTER D. REVENUE BONDS

Sec. 322.071. ISSUANCE; PURPOSE. (a) For the purpose of providing funds to acquire, improve, equip, and repair parks under its control, or for the acquisition or construction of facilities to be used in or connected with or incident to one or more of the parks, the board by resolution may issue bonds from time to time.

(b) The bonds are fully negotiable instruments under Chapter 3, Business & Commerce Code, and other laws of this state.

(c) Included among the permanent improvements and facilities that may be acquired through the issuance of bonds are stadiums, coliseums, auditoriums, athletic fields, pavilions, buildings and grounds for assembly, and parking facilities or other incident improvements.

(d) The bonds must be issued in the name of the board, signed by the chairman, and attested by the secretary. The signatures may be facsimile signatures printed on the bonds. The seal of the board must be impressed, printed, or lithographed on the bonds.

(e) The bonds must mature serially or otherwise in not more than 40 years and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable. The net effective interest rate may not exceed the maximum rate provided by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k–2, Vernon's Texas Civil Statutes).

(f) The resolution authorizing the issuance of the bonds shall prescribe the details as to the bonds. It may contain provisions for the calling of the bonds for redemption before their respective maturity dates at particular prices and times. Except for rights of redemption expressly reserved in the resolution and the bonds, the bonds are not subject to redemption before their scheduled maturity dates.

(g) The bonds may be made payable at times and places inside or outside this state as prescribed in the resolution.

(h) The bonds may be made registrable as to principal, or both principal and interest.

(i) The bonds may be issued in one or more series. (V.A.C.S. Art. 6079f, Secs. 12(a), (b).)

Sec. 322.072. PLEDGE OF REVENUES. (a) The bonds may be secured by a pledge of all or part of the net revenues from one or more parks under control of the board, from the facilities of or incident to the parks, or from the parks and the facilities.

(b) The net revenues of one or more contracts, operating contracts, leases, or agreements may be pledged as the sole security or as additional security for the support of the bonds.

(c) The bonds may be additionally secured by a mortgage on all or part of the real and personal property owned by the board.

(d) In the resolution authorizing issuance of bonds, the board may reserve the right, under conditions specified in the resolution, to issue additional bonds that will be on a parity with or subordinate to the bonds then being issued.

(e) While any bonds are outstanding, no additional bonds of equal dignity may be issued against the pledged revenues except to the extent and in the manner expressly permitted in the resolution.

(f) In this chapter, "net revenues" means the gross revenues from the park or parks and the facilities, leases, agreements, or contracts incident to the park or parks, the revenues of which have been pledged, after deduction of the necessary expenses as provided by Section 322.075. (V.A.C.S. Art. 6079f, Secs. 12(c), (d), (g).)

Sec. 322.073. PROCEEDS. (a) The proceeds of the bonds shall be used under the restrictions provided in the resolution. The holders of the bonds and any trustee provided for in respect to the bonds have a lien on the proceeds until so applied, but neither the depository of those funds nor the trustee is obligated to ensure the proper application of the funds except as expressly provided in the resolution or the indenture securing the bonds.

(b) From the bond proceeds there may be set aside:

(1) an amount for payment of interest on the bonds estimated to accrue during the construction period and any additional period prescribed in the resolution; and

(2) an amount for the interest and sinking fund or another reserve fund provided for in the resolution.

(c) Proceeds remaining after the amounts are set aside under Subsection (b) shall be used for the payment of all expenses necessarily incurred in the issuance and sale of the bonds and then for the purposes specified in the resolution.

(d) Any surplus remaining after accomplishment of the bond purposes shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices or be retained for future expansion or improvements. (V.A.C.S. Art. 6079f, Secs. 12(e), 15 (part).)

Sec. 322.074. APPROVAL AND REGISTRATION. (a) Before the bonds are delivered to the purchaser, the bonds and the records pertaining to the bonds must be submitted to the attorney general for examination and approval. The attorney general shall approve the bonds if issued in accordance with this subchapter.

(b) Bonds approved by the attorney general and registered with the comptroller of public accounts are incontestable. (V.A.C.S. Art. 6079f, Sec. 12(h).)

Sec. 322.075. FEES AND REVENUE. (a) In this section, "fee" includes a fee, charge, or toll.

(b) The expense of operation and maintenance of facilities the revenues of which are pledged to the payment of bonds are a first lien on and charge against the income of the facilities. If any of the bonds or interest remains outstanding, the board shall charge or require the payment of fees for the use of the facilities. The board shall determine the rate of fees charged by it for the use, operation, or lease of the facilities. Fees must be equal and uniform within the classes defined by the board and must be in amounts that will yield revenues at least sufficient to pay the expenses of operation and maintenance and to make the payment prescribed in the resolution for debt service. "Debt service," as defined in the resolution, may include the payment of principal and interest as each matures, the establishment and maintenance of funds for extensions and improvements, an operating reserve, and an interest and sinking fund reserve.

(c) The board shall fix the fees in amounts that are sufficient to comply with the covenants in the resolution and with this chapter.

(d) If part of the security for the bonds consists of money to be received by the board as consideration for facilities belonging to the board but operated by a person other than the board under a lease or operating contract, the board shall fix and authorize fees to be charged by the person for services rendered by the facilities. The fees must be in amounts at least sufficient to assure receipt by the board of money that the board is committed to pay from that source for debt service under the terms of the resolution. (V.A.C.S. Art. 6079f, Secs. 14, 15 (part).)

Sec. 322.076. REFUNDING BONDS. (a) Fully negotiable bonds may be issued by resolution of the board for the purpose of refunding bonds issued under this chapter.

(b) The refunding bonds may be secured in the manner provided by this chapter for securing original bonds.

(c) Refunding bonds may be sold and the proceeds used to retire the original bonds, or may be used in exchange for the original bonds, as provided in the resolution authorizing their issuance. (V.A.C.S. Art. 6079f, Sec. 13.)

Sec. 322.077. BONDS NOT STATE OR COUNTY DEBT. (a) The bonds are not a debt of either of the counties, of this state, or of the individual members of the board, but are payable solely from the income and properties of the board.

(b) Each bond must contain on its face substantially the following provision: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." (V.A.C.S. Art. 6079f, Sec. 12(f).)

Sec. 322.078. MISCELLANEOUS PROVISIONS. (a) In this section, "fee" includes a fee, charge, or toll.

(b) The resolution authorizing the issuance of the bonds may require that the bonds contain a recital that they are issued pursuant to and in strict conformity with this chapter. If made, that recital is conclusive evidence of the validity of the bonds and the regularity of their issuance.

(c) Each bond is exempt from taxation by this state or by a municipal corporation, county, or other political subdivision or taxing district of the state.

(d) If provided for in the resolution, an indenture securing the bonds may be executed between the board and a corporate trustee. The resolution may also provide for execution of the indenture by a corporate or individual cotrustee. In addition to the pledge of revenues, the indenture may grant a mortgage or deed of trust lien on all or any part of the real and personal property of the board. A corporate trustee or corporate cotrustee must be a trust company or a bank located inside or outside this state that has trust powers.

(e) Either the resolution or an indenture may contain provisions for protecting or enforcing the rights or remedies of the bondholders as considered by the board to be reasonable, proper, and not in violation of law. The provisions may include covenants setting forth the duties of the board in reference to the maintenance, operation or repair, and insurance of the facility the revenues of which are pledged, including within the discretion of the board, insurance against loss of use and occupancy. The provisions may also include covenants for the custody, safeguarding, and application of money received from the sale of the bonds and from the revenues received from the operation of the project.

(f) Any bank or trust company in this state may act as depository for the proceeds of the bonds, the revenues derived for operation of the facilities the revenues of which are pledged, or for the special funds created to assure payment of principal and interest on the bonds, including reserve funds and accounts. The depository may furnish indemnity bonds or pledge securities as required by the board.

(g) The board may select the depository or depositories without the necessity of seeking competitive bids. The deposits must be secured in the manner required by law for the security of county funds. The board in the resolution or indenture may bind the board to the use of direct obligations of the United States or obligations unconditionally guaranteed by the United States as security for the deposits.

(h) The resolution or indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual rights of action of the bondholders. The resolution may contain other suitable provisions the board considers reasonable and proper for the security of the bondholders, including:

(1) covenants prescribing occurrences that constitute events of default and the terms and conditions on which any or all of the bonds become due, or may be declared to be due, before maturity; and

(2) covenants as to the rights, liabilities, powers, and duties arising from the breach by the board of any of its duties or obligations.

(i) Any bondholder or a trustee for a bondholder may by mandamus or other proceeding in a court of competent jurisdiction enforce the bondholder's rights against the board or its agents and employees or against any lessee of any facility the revenues of which are pledged to the bonds, including the right to require the board to impose, establish, and enforce fees sufficient and effective to carry out the agreements contained in the resolution or indenture, the right to perform all agreements and covenants in the resolution and the duties arising from the resolution or indenture, and the right in the event of default as defined in the resolution or indenture to apply for and obtain the appointment of a receiver for any of the properties involved. If a receiver is appointed, the receiver shall enter and take possession of the facilities mortgaged and the revenues of which have been pledged. The receiver shall retain possession until the board is no longer in default or until relieved by a court, and shall collect and receive all revenues and fees arising from the retained property. The receiver may make and renew contracts or leases with the approval of the court in the same manner as the board. The receiver shall dispose of and apply the money in accordance with the obligations of the board under the resolution or indenture and as the court may direct.

(j) The resolution or indenture may contain provisions to the effect that while the revenues of the park facilities are pledged to the payment of bonds, no free service may be rendered by any of those facilities for which fees are to be effective under the resolution.

(k) The bonds are legally authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds and other funds of this state. The bonds are eligible to secure the deposit of any municipal corporation, county, political subdivision, public agency, or taxing district in this state, and the bonds are lawful and sufficient security for those deposits to the extent of their face value when accompanied by all unmatured appurtenant coupons.

(l) The resolution, the indenture, and this chapter constitute an irrevocable contract between the board and the bondholders. (V.A.C.S. Art. 6079f, Sec. 15 (part).)

CHAPTER 323. COUNTY LIBRARIES

SUBCHAPTER A. COUNTY LIBRARY

Sec. 323.001. ESTABLISHMENT AND MAINTENANCE

Sec. 323.002. MAINTENANCE FUNDS

Sec. 323.003. GIFTS

Sec. 323.004. FARMERS' COUNTY LIBRARY

Sec. 323.005. LIBRARIAN

Sec. 323.006. SUPERVISION

Sec. 323.007. LIBRARY FUND

Sec. 323.008. PARTICIPATION WITH A MUNICIPALITY

Sec. 323.009. PARTICIPATION WITH A COUNTY

Sec. 323.010. JOINT LIBRARY

Sec. 323.011. PARTICIPATION WITH AN ESTABLISHED LIBRARY

Sec. 323.012. PARTICIPATION WITH A PRIVATELY OWNED LIBRARY

Sec. 323.013. DISCONTINUATION OF LIBRARY

[Sections 323.014–323.020 reserved for expansion]

SUBCHAPTER B. COUNTY LAW LIBRARY

Sec. 323.021. ESTABLISHMENT AND MAINTENANCE

Sec. 323.022. GIFTS

Sec. 323.023. LAW LIBRARY FUND

Sec. 323.024. MANAGEMENT

Sec. 323.025. CLAIMS

CHAPTER 323. COUNTY LIBRARIES

SUBCHAPTER A. COUNTY LIBRARY

Sec. 323.001. ESTABLISHMENT AND MAINTENANCE. (a) The commissioners court of a county may, on its own motion, and shall, on petition by a majority of the voters of the affected part of the county, establish, maintain, and operate a free county library for the area of the county located outside the municipalities that maintain free public libraries.

(b) The county library shall be located at the county seat in the courthouse unless a more suitable location is available. (V.A.C.S. Arts. 1677 (part), 1678.)

Sec. 323.002. MAINTENANCE FUNDS. The commissioners court annually may set aside from the general fund or the permanent improvement fund of the county an amount to be used to maintain or to make a permanent improvement or acquire land for the county library. The amount may not exceed 12 cents on the \$100 valuation of all property:

(1) located in the county outside the municipalities that are supporting a free public library and that are not participating in the county library system; and

(2) located within the municipalities that are supporting a free public library and that have elected to become a part of the county library system. (V.A.C.S. Art. 1679.)

Sec. 323.003. GIFTS. The commissioners court may receive a gift, bequest, or devise for the county library or a branch or subdivision of the library. Title to property given, bequeathed, or devised to the county library vests in the county. A gift or bequest made for the benefit of a branch of the library shall be administered as designated by the donor. (V.A.C.S. Art. 1680.)

Sec. 323.004. FARMERS' COUNTY LIBRARY. In a county that has a farmers' county library established under prior law, the library shall continue to operate as a farmers' county library, but if a county library is established in the county, the farmers' county library shall become a part of the county library. (V.A.C.S. Art. 1681.)

Sec. 323.005. LIBRARIAN. (a) If a county library is established, the commissioners court shall appoint a county librarian. The term of office of the librarian is two years. The commissioners court may remove the librarian for cause after a hearing by the commissioners court.

(b) A person is not eligible for appointment as a county librarian unless the person has first obtained from the Texas State Library and Archives Commission a county librarian's certificate of qualification for office. If a person has received the certificate and has served as a county librarian, further examination and certification by the commission is not required for employment or reemployment of the person as a county librarian. Before beginning the duties of office, a person appointed as county librarian must file with the county clerk the official oath and execute a bond conditioned that the person will faithfully perform the duties of office. The bond must be in an amount determined by the commissioners court and must be purchased from sufficient sureties approved by the county judge.

(c) The county librarian shall attempt to provide equal and complete service to all areas of the county through branch libraries and deposit stations in schools and other

suitable locations and shall distribute books, other printed matter, and other educational materials as quickly as circumstances permit. The librarian may make rules for the operation of the county library, establish branch libraries and deposit stations in the county, determine the number and type of employees needed by the library, and, with the approval of the commissioners court, hire and dismiss the employees. The librarian shall, subject to the general rules adopted by the commissioners court, develop and manage the library in accordance with accepted rules of library management and shall determine which books and library equipment will be purchased.

(d) On or before October 1 of each year, the county librarian shall report to the commissioners court and the state librarian on the operation of the county library during the year ending on the preceding August 31. The report must be made on a form furnished by the state librarian and must contain a statement of the condition of the library and a statement of its operation during the year and must contain financial and book statistics customarily kept by well-regulated libraries. (V.A.C.S. Arts. 1683, 1685, 1686.)

Sec. 323.006. SUPERVISION. The county library is under the general supervision of the commissioners court. It is also under the supervision of the state librarian who, in person or by an assistant, shall periodically visit the library, inquire as to its condition, advise the librarian and the commissioners court about the library, and give whatever assistance possible in matters that relate to the library. (V.A.C.S. Art. 1687.)

Sec. 323.007. LIBRARY FUND. Funds of the county library shall be deposited in a separate fund to be known as the county free library fund and may be used only for library purposes. The funds are under the custody of the county treasurer or any other county official designated to discharge the duties commonly assigned to the county treasurer. (V.A.C.S. Art. 1689 (part).)

Sec. 323.008. PARTICIPATION WITH A MUNICIPALITY. (a) If a county library is established, the governing body of a municipality that maintains a free public library may notify the commissioners court that the municipality desires to become a part of the county library system. After the notice is given, the municipality is considered to be a part of the system, and the residents of the municipality are entitled to the benefits of the library. Property in the municipality shall be included in determining the amount to be set aside in the county free library fund for county library purposes.

(b) The commissioners court of a county that has established a county library may contract with the governing body of a municipality that maintains a free public library to extend county library privileges to the municipality's residents to the extent and for consideration as the parties may agree. The consideration paid by the municipality shall be deposited in the county free library fund. On the making of the contract, the library privileges are extended to the residents of the municipality.

(c) After a municipality has been a part of the county library system for two years, the governing body of the municipality may withdraw from the system by giving notice of its intention to do so to the commissioners court. The notice must be given at least six months before the withdrawal. On withdrawal, the municipality is no longer entitled to participate in the benefits of the system, and the property located in the municipality may not be included in computing the amount to be set aside for county library purposes. Before the governing body may give the notice of withdrawal to the commissioners court or before the governing body may retract the notice of withdrawal after it has been given to the commissioners court, the governing body must publish another notice once a week for six consecutive weeks in a county newspaper circulated throughout the municipality and designated by the governing body. The published notice must state the nature of the proposed action and the date and location of the meeting at which the proposed action is to be taken. (V.A.C.S. Arts. 1690, 1691, 1692.)

Sec. 323.009. PARTICIPATION WITH A COUNTY. (a) The commissioners court of a county that has established a county library may contract with the commissioners court of another county to extend county library privileges to the residents of the other county to the extent and for the consideration as the parties may agree. The consideration received from the other county shall be deposited in the county free library fund. On the making of the contract, the library privileges are extended to the residents of the other county.

(b) The other county may provide for a county free library fund in the same manner in which a county that establishes a county library may provide for the fund. The purpose of the fund is to carry out a contract made by the other county under Subsection (a).

(c) If the other county makes a contract under Subsection (a), it is not prohibited from establishing its own county library under this subchapter, and if it does so, it may terminate the contract on mutually agreeable terms or may continue under the contract until expiration of its term. (V.A.C.S. Art. 1693.)

Sec. 323.010. **JOINT LIBRARY.** (a) The commissioners court of a county may establish in cooperation with other counties a joint free county library for the benefit of the cooperating counties.

(b) The commissioners courts of two or more adjacent counties may jointly establish and maintain a free library under the terms and provisions established by this subchapter for the establishment and maintenance of a free county library. In doing so, the commissioners courts of the participating counties shall operate jointly in the same manner as the commissioners court of a single county. The participating counties have the same powers and are subject to the same liabilities under this subchapter as a single county.

(c) If a county withdraws from the joint county library, it is entitled to a division of property according to terms agreed on at the time the library was established. (V.A.C.S. Arts. 1677 (part), 1695.)

Sec. 323.011. **PARTICIPATION WITH AN ESTABLISHED LIBRARY.** (a) Instead of establishing a county library, the commissioners court of a county may, on petition of a majority of the voters in the county, contract for library privileges from an established library.

(b) The contract must provide that the established library assume the functions of a county library within the county, including municipalities in the county, and must provide that the librarian of the established library hold or secure a county librarian's certificate from the Texas State Library and Archives Commission. The commissioners court may contract to pay annually to the established library out of the county free library fund an amount on which the parties may agree.

(c) Either party to the contract may terminate it by giving to the other party six months' notice of its intention to do so. Property acquired under the contract is subject to division on termination of the contract on terms specified in the contract. (V.A.C.S. Art. 1694.)

Sec. 323.012. **PARTICIPATION WITH A PRIVATELY OWNED LIBRARY.** The commissioners court of a county that has established a county library may contract with a privately owned library that serves an area of the county not adequately served by the county library to provide county library service to that area. The contract may require that the privately owned library submit to any reasonable regulation that is imposed on governmental libraries. (V.A.C.S. Art. 1689 (part).)

Sec. 323.013. **DISCONTINUATION OF LIBRARY.** A county library may be discontinued on petition of a majority of the voters in that part of the county that maintains the library. The commissioners court shall, on termination of existing contracts, call in and inventory all books and other movable property of the discontinued library and shall store the property under lock and seal in a suitable place in the county courthouse. (V.A.C.S. Art. 1696.)

[Sections 323.014–323.020 reserved for expansion]

SUBCHAPTER B. COUNTY LAW LIBRARY

Sec. 323.021. **ESTABLISHMENT AND MAINTENANCE.** (a) The commissioners court of a county by order may establish and maintain a county law library at the county seat.

(b) The commissioners court shall provide suitable space for housing the library at a place that is both convenient and accessible to the judges and litigants of the county. The commissioners court may, with the advice of the committee created under Section 323.024,

use funds collected under this subchapter to acquire a location for the library, though priority in the use of funds shall be given to the acquisition of books, periodicals, other library materials, and staff for the library. The commissioners court may appropriate an amount not to exceed \$20,000 to establish the library and shall annually appropriate an amount necessary for the proper maintenance and operation of the library. (V.A.C.S. Art. 1702h, Secs. 1, 2, 7 (part).)

Sec. 323.022. **GIFTS.** The commissioners court may receive any gift or bequest to the law library. Title to a gift or bequest vests in the county. A conditional gift or bequest shall be administered as designated by the donor. (V.A.C.S. Art. 1702h, Sec. 3.)

Sec. 323.023. **LAW LIBRARY FUND.** (a) A sum set by the commissioners court not to exceed \$10 shall be taxed, collected, and paid as other costs in each civil case filed in a county or district court, except suits for delinquent taxes. The county is not liable for the costs.

(b) The clerks of the respective courts shall collect the costs and pay them to the county treasurer, or to any other official who discharges the duties commonly delegated to the county treasurer, for deposit in a fund to be known as the county law library fund. The fund may be used only for the purpose of establishing the law library after the entry of the order creating it or for the purpose of purchasing or leasing library materials, maintaining the library, or acquiring furniture, shelving, or equipment for the library.

(c) The county law library fund shall be administered by or under the direction of the commissioners court. (V.A.C.S. Art. 1702h, Secs. 4, 7 (part), 8 (part).)

Sec. 323.024. **MANAGEMENT.** (a) The commissioners court of a county that has established a law library under this subchapter shall adopt rules for the use of books in the county law library.

(b) The commissioners court may vest management of the library in a committee selected by the county bar association. Actions of the committee are subject to approval by the commissioners court. (V.A.C.S. Art. 1702h, Secs. 5, 7 (part).)

Sec. 323.025. **CLAIMS.** A claim against the law library shall be handled as other claims against the county. (V.A.C.S. Art. 1702h, Sec. 8 (part).)

[Chapters 324–330 reserved for expansion]

SUBTITLE C. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 331. MUNICIPAL AND COUNTY AUTHORITY TO ACQUIRE AND MAINTAIN PARKS, MUSEUMS, AND HISTORIC SITES

- Sec. 331.001. **GENERAL AUTHORITY**
- Sec. 331.002. **ACQUISITION OF HISTORIC OBJECTS**
- Sec. 331.003. **EMINENT DOMAIN**
- Sec. 331.004. **BONDS AND TAXES**
- Sec. 331.005. **MANAGEMENT OF FACILITIES**
- Sec. 331.006. **CONCESSIONS**
- Sec. 331.007. **PUBLIC USE**
- Sec. 331.008. **MUNICIPAL AND COUNTY COOPERATION**
- Sec. 331.009. **ROAD CLOSINGS**
- Sec. 331.010. **COOPERATION OF STATE AGENCIES**

SUBTITLE C. PARKS AND OTHER RECREATIONAL AND CULTURAL RE-
SOURCES PROVISIONS APPLYING TO MORE THAN ONE TYPE
OF LOCAL GOVERNMENT

CHAPTER 331. MUNICIPAL AND COUNTY AUTHORITY TO ACQUIRE AND
MAINTAIN PARKS, MUSEUMS, AND HISTORIC SITES

Sec. 331.001. GENERAL AUTHORITY. (a) A municipality or county may improve land for park purposes and may operate and maintain parks. The authority to improve the land includes the authority to construct buildings, lay out and pave driveways and walks, construct ditches or lakes, and set out trees and shrubs.

(b) A municipality or county may by gift, devise, purchase, or eminent domain proceeding acquire:

(1) land and buildings to be used for public parks, playgrounds, or historical museums; or

(2) land on which are located:

(A) historic buildings, sites, or landmarks of statewide historical significance associated with historic events or personalities;

(B) prehistoric ruins, burial grounds, or archaeological or vertebrate paleontological sites; or

(C) sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historic buildings, markers, monuments, or historical features.

(c) Land acquired by a municipality under Subsection (b) may be situated inside or outside the municipality but must be within the county in which the city is situated, and land acquired by a county under Subsection (b) must be within the limits of the county. The land may be acquired in any size tract considered suitable by the governing body of the municipality or county. (V.A.C.S. Art. 6080 (part); Art. 6081e, Sec. 1 (part); Art. 6081f, Secs. 1, 2 (part).)

Sec. 331.002. ACQUISITION OF HISTORIC OBJECTS. A municipality or county may acquire by gift or purchase, individually or in a collection, any historic book, painting, sculpture, coin, or other object or collection of historical significance to the municipality or county. (V.A.C.S. Art. 6081e, Sec. 1 (part).)

Sec. 331.003. EMINENT DOMAIN. A municipality or county may exercise eminent domain under Section 331.001(b) for the acquisition of a historic site, building, or structure only on a showing that it is necessary to prevent the destruction or deterioration of the site, building, or structure. (V.A.C.S. Art. 6081e, Sec. 1A.)

Sec. 331.004. BONDS AND TAXES. (a) A municipality or county may issue negotiable bonds for the purpose of acquiring or improving land, buildings, or historically significant objects for park purposes or for historic or prehistoric preservation purposes, and may assess, levy, and collect ad valorem taxes to pay the principal of and interest on those bonds and to provide a sinking fund.

(b) The issuance of the bonds and the levy of the taxes shall be in accordance with Chapter 1, Title 22, Revised Statutes.

(c) There is no limit on the amount of taxes that may be levied for the operation and maintenance expenses of parks or for the payment of the principal of and interest on the bonds except for the limits provided by the Texas Constitution. (V.A.C.S. Art. 6080 (part); Art. 6081d, Sec. 2; Art. 6081e, Sec. 2; Art. 6081f, Secs. 2 (part), 3.)

Sec. 331.005. MANAGEMENT OF FACILITIES. (a) Parks acquired under this chapter are under the control and management of the municipality or county acquiring the park. The commissioners court or the governing body of the municipality may by agreement with the Parks and Wildlife Department turn the land over to the department to be operated as a public park. The expenses of the improvement and operation of the park shall be paid by the municipality or county according to the agreement with the department.

(b) A historic or prehistoric site, historical museum, or historically significant object acquired under this chapter is under the control and management of the municipality or county that acquired it. (V.A.C.S. Art. 6081d, Sec. 3 (part); Art. 6081e, Sec. 3 (part).)

Sec. 331.006. CONCESSIONS. (a) The management of any park, historical museum, or historic or prehistoric site acquired under this chapter may sell or lease concessions or privileges for the establishment of amusements, stores, gasoline stations, and other concerns consistent with the operation of a public park and the preservation of noteworthy features of a historic or prehistoric site or historical museum.

(b) The proceeds of the sales and leases may be used only for the improvement and operation of the park, museum, or site. However, the proceeds of the sales or leases in connection with a municipal park may also be used for the support, maintenance, and upkeep of other municipal parks. (V.A.C.S. Art. 6081; Art. 6081d, Sec. 5 (part); Art. 6081e, Sec. 4.)

Sec. 331.007. PUBLIC USE. A park, a playground, a historical museum and its contents, or a historic or prehistoric site acquired and maintained under this chapter shall be open for the use of the public under rules prescribed by the governing body of the park, playground, museum, or site. (V.A.C.S. Art. 6080 (part); Art. 6081d, Sec. 5 (part); Art. 6081e, Sec. 5 (part).)

Sec. 331.008. MUNICIPAL AND COUNTY COOPERATION. (a) A municipality and a county may act in cooperation with each other in the exercise of authority under this chapter. A park, playground, museum, or site acquired jointly by a municipality and county acting in cooperation is under joint management and control.

(b) If a municipality owns land outside its limits that is devoted to use as a playground or park and is adjacent to land that is owned by the county in which the municipality is situated and that is devoted to use as a public park, the municipality or county may purchase the adjacent land from the other on terms agreed to by each. The purchased land must be used in connection with the adjacent lands and devoted to use as a playground or park. The consideration for the purchase must be sufficient to provide for the payment of any outstanding bonded indebtedness incurred by the seller in acquiring the land. All sums credited to the sinking fund for the indebtedness shall be subtracted from the face value of the unpaid bonds in determining the outstanding indebtedness.

(c) A municipality and the county in which the municipality is located that separately own adjacent land that is outside the municipal limits and is dedicated to use as a park or playground may by lease or other arrangement provide for the single management and control of the land. The agreement may be for any period and on any terms agreed to by the municipality and county. The agreement must vest exclusive management and control of the entirety of the lands for the benefit of the public as a recreational park or playground in the governing body of the municipality or the commissioners court of the county. Such an agreement does not affect the power of either the municipality or the county to contribute funds to the maintenance and improvement of the park or playground or the facilities of the park or playground. (V.A.C.S. Art. 6081d, Secs. 7, 8; Art. 6081e, Secs. 1 (part), 3 (part).)

Sec. 331.009. ROAD CLOSINGS. A roadway on land acquired by a municipality for park purposes outside the municipal limits, or a roadway that abuts on both sides land that the municipality or county may dedicate to the management and control of the other under Section 331.008, may be closed by order of the commissioners court of the county in which the roadway is located. All rights that the state may have in the roadway as a result of a previous dedication are canceled and surrendered to the county or municipality, as appropriate. (V.A.C.S. Art. 6081d, Sec. 9.)

Sec. 331.010. COOPERATION OF STATE AGENCIES. (a) The Parks and Wildlife Department may cooperate with a municipality or county in the acquisition and establishment of parks and playgrounds, and may adopt rules for the acquisition, establishment, and operation of the parks and playgrounds with the municipality or county as the department and the municipality or county consider advisable.

(b) The governor and the Texas Board of Corrections may permit the use of state convicts for the improvement and maintenance of parks acquired under this chapter under

agreements made by the Parks and Wildlife Department and the municipality or county. (V.A.C.S. Art. 6081e, Secs. 1 (part), 5.)

CHAPTER 332. MUNICIPAL AND COUNTY RECREATIONAL PROGRAMS AND FACILITIES

SUBCHAPTER A. MUNICIPAL AND COUNTY AUTHORITY

- Sec. 332.001. DEFINITIONS
- Sec. 332.002. ESTABLISHMENT AND OPERATION OF RECREATIONAL FACILITIES AND PROGRAMS
- Sec. 332.003. REFERENDUM
- Sec. 332.004. FINANCES
- Sec. 332.005. ADMINISTRATION
- Sec. 332.006. GRANTS

[Sections 332.007–332.020 reserved for expansion]

SUBCHAPTER B. JOINT FACILITIES FOR POLITICAL SUBDIVISIONS

- Sec. 332.021. JOINT RECREATIONAL FACILITIES

CHAPTER 332. MUNICIPAL AND COUNTY RECREATIONAL PROGRAMS AND FACILITIES

SUBCHAPTER A. MUNICIPAL AND COUNTY AUTHORITY

Sec. 332.001. DEFINITIONS. In this subchapter:

(1) “Governing body” means a governing body of a municipality or commissioners court of a county, or another body acting in place of the municipal governing body or commissioners court.

(2) “Board” means a board, commission, committee, or council appointed or designated to carry out this subchapter. (V.A.C.S. Art. 1015c-1, Sec. 2.)

Sec. 332.002. ESTABLISHMENT AND OPERATION OF RECREATIONAL FACILITIES AND PROGRAMS. A municipality or county may establish, provide, acquire, maintain, construct, equip, operate, and supervise recreational facilities and programs, either singly or jointly in cooperation with one or more other municipalities or counties. (V.A.C.S. Art. 1015c-1, Sec. 3.)

Sec. 332.003. REFERENDUM. A municipality or county may submit in an election of its qualified voters the question of whether it should exercise the powers conferred by this subchapter. (V.A.C.S. Art. 1015c-1, Sec. 4.)

Sec. 332.004. FINANCES. (a) A municipality or county may pay costs and expenses of carrying out this subchapter from its general revenues or from other revenues provided by law for the establishment or the operation of parks and recreational facilities.

(b) Municipalities and counties jointly exercising the powers by this subchapter may agree on the manner and method of division of costs and expenses. (V.A.C.S. Art. 1015c-1, Sec. 5.)

Sec. 332.005. ADMINISTRATION. A governing body may administer and operate recreational facilities and programs through a bureau or department of recreation or through a board established jointly with another governing body. The board shall adopt rules for the administration and operation of the recreational facilities and programs under its control subject to the approval of the establishing governing bodies. (V.A.C.S. Art. 1015c-1, Sec. 6.)

Sec. 332.006. GRANTS. A municipality or county may accept a grant, a lease, a loan or devise of real estate, a gift or bequest of money, either principal or income, or any other personal property for temporary or permanent use for the establishment, operation, or support of public recreation facilities and programs. (V.A.C.S. Art. 1015c-1, Sec. 7.)

[Sections 332.007–332.020 reserved for expansion]

SUBCHAPTER B. JOINT FACILITIES FOR POLITICAL SUBDIVISIONS

Sec. 332.021. JOINT RECREATIONAL FACILITIES. (a) Any two political subdivisions, including municipalities and independent school districts, that are located in the same or adjacent counties may jointly by agreement establish, provide, maintain, construct, and operate playgrounds, recreation centers, athletic fields, swimming pools, and other park or recreational facilities located on property owned or acquired by either political subdivision.

(b) The political subdivisions acting jointly may issue bonds and otherwise act under either Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j–4.1, Vernon’s Texas Civil Statutes), or Chapter 470, Acts of the 44th Legislature, 2nd Called Session, 1935 (Article 1180b, Vernon’s Texas Civil Statutes), for the purposes authorized by this section. The political subdivisions may issue the bonds and take other joint actions under their agreement by joint concurrent ordinances or resolutions.

(c) The political subdivisions may delegate supervision and management of the facilities to an operating board or agency. (V.A.C.S. Art. 6081t.)

CHAPTER 333. JOINT MUNICIPAL-COUNTY MUSEUMS

Sec. 333.001. DEFINITIONS

Sec. 333.002. JOINT MUSEUM

Sec. 333.003. FINANCES

Sec. 333.004. BOARD OF MANAGERS

Sec. 333.005. COMPOSITION OF BOARD; TERMS

Sec. 333.006. OFFICERS

Sec. 333.007. CONTRACTS, GRANTS, AND EXPENDITURES

Sec. 333.008. FINANCIAL STATEMENT AND BUDGET

Sec. 333.009. PERSONNEL

CHAPTER 333. JOINT MUNICIPAL-COUNTY MUSEUMS

Sec. 333.001. DEFINITIONS. In this chapter:

(1) “Board” means the board of managers of a joint municipal and county museum.

(2) “Governing body” means a commissioners court of a county or a governing body of a municipality. (New.)

Sec. 333.002. JOINT MUSEUM. The governing bodies of a county with a population of 20,000 or less and a municipality that has a population of 10,000 or more and that is located within the county may jointly erect, equip, maintain, and operate a museum. (V.A.C.S. Art. 2372d–5, Sec. 1 (part).)

Sec. 333.003. FINANCES. The museum may be financed out of the general revenues of the municipality and county in agreed proportions. (V.A.C.S. Art. 2372d–5, Sec. 1 (part).)

Sec. 333.004. BOARD OF MANAGERS. By resolution or other proper action, the governing bodies may delegate to a board of managers full authority to erect, maintain, own, and equip a museum and to own, lease, or sublet realty for the museum. (V.A.C.S. Art. 2372d–5, Sec. 1 (part).)

Sec. 333.005. COMPOSITION OF BOARD; TERMS. (a) The board must be composed of nine members, with four members appointed by each governing body and one appointed jointly by the governing bodies.

(b) Members serve for staggered terms of four years. In appointing the initial board, each governing body shall designate one appointee to serve for a one-year term, one to serve for a two-year term, one to serve for a three-year term, and one to serve for a four-year term. The member appointed jointly shall serve for a four-year term. Terms expire on the appropriate anniversary of the date of appointment.

(c) A vacancy occurring on the board by death or resignation shall be filled for the unexpired term by appointment of the governing body that appointed the vacating member or by joint appointment, as applicable. (V.A.C.S. Art. 2372d-5, Sec. 2.)

Sec. 333.006. OFFICERS. (a) The board shall select from its membership a presiding officer. The presiding officer shall:

- (1) preside over all board meetings; and
- (2) sign all contracts, agreements, and other instruments executed by the board on behalf of the county and the municipality.

(b) The board may elect other officers from its membership as it considers necessary. (V.A.C.S. Art. 2372d-5, Sec. 3.)

Sec. 333.007. CONTRACTS, GRANTS, AND EXPENDITURES. (a) The board may enter into any contract connected with or incident to the establishment, equipping, maintaining, and operating of the museum.

(b) The board may borrow and receive, exchange, sell, and lend property for the benefit of the museum.

(c) The board may accept on behalf of the municipality and county a gift or bequest. A gift or loan of property must be administered as designated by the donor.

(d) The board may pay and disburse funds set aside by the municipality and county for purposes connected with operating and maintaining the museum as if the action were taken by the governing bodies. (V.A.C.S. Art. 2372d-5, Secs. 1 (part), 4.)

Sec. 333.008. FINANCIAL STATEMENT AND BUDGET. (a) Once each year the board shall prepare and present to the governing bodies a complete financial statement on the condition of the museum and shall submit to those bodies a proposed budget for the anticipated financial needs for the next year.

(b) On the basis of the financial statement and budget, the governing bodies shall appropriate and set aside for the use of the board the amount of money the bodies consider necessary for the operation of the museum. (V.A.C.S. Art. 2372d-5, Sec. 5.)

Sec. 333.009. PERSONNEL. (a) The board may hire a manager of the museum. With the consent of the board, the manager may hire other personnel.

(b) The manager and other personnel are subject to the bylaws and rules adopted by the board. (V.A.C.S. Art. 2372d-5, Sec. 6.)

[Chapters 334-340 reserved for expansion]

TITLE 11. PUBLIC SAFETY

SUBTITLE A. MUNICIPAL PUBLIC SAFETY

CHAPTER 341. MUNICIPAL LAW ENFORCEMENT

SUBCHAPTER A. REGULAR POLICE FORCE

Sec. 341.001. POLICE FORCE OF TYPE A GENERAL-LAW MUNICIPALITY

Sec. 341.002. POLICE FORCE OF TYPE C GENERAL-LAW MUNICIPALITY

Sec. 341.003. POLICE FORCE OF HOME-RULE MUNICIPALITY

[Sections 341.004-341.010 reserved for expansion]

SUBCHAPTER B. OTHER POLICE FORCES

Sec. 341.011. SPECIAL POLICE FORCE IN TYPE A GENERAL-LAW MUNICIPALITY

Sec. 341.012. POLICE RESERVE FORCE

[Sections 341.013–341.020 reserved for expansion]

SUBCHAPTER C. MARSHALS

Sec. 341.021. MARSHAL OF TYPE A GENERAL-LAW MUNICIPALITY

Sec. 341.022. MARSHAL OF TYPE B GENERAL-LAW MUNICIPALITY

[Sections 341.023–341.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 341.901. WATCHMEN IN TYPE A GENERAL-LAW MUNICIPALITY

Sec. 341.902. WORKHOUSE AND HOUSE OF CORRECTION IN TYPE A GENERAL-LAW MUNICIPALITY

Sec. 341.903. AUTHORITY OF HOME-RULE MUNICIPALITY TO POLICE MUNICIPALLY OWNED PROPERTY OUTSIDE MUNICIPALITY

TITLE 11. PUBLIC SAFETY

SUBTITLE A. MUNICIPAL PUBLIC SAFETY

CHAPTER 341. MUNICIPAL LAW ENFORCEMENT

SUBCHAPTER A. REGULAR POLICE FORCE

Sec. 341.001. POLICE FORCE OF TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality may establish and regulate a municipal police force.

(b) The governing body by ordinance may provide for the appointment of police officers the governing body considers necessary and for the terms of office and qualifications of the officers.

(c) The governing body by ordinance may provide that the police officers serve at the pleasure of the governing body.

(d) Each police officer shall execute a bond as the governing body may require. The bond must be conditioned that the officer will faithfully perform the officer's duties.

(e) A police officer has:

(1) the powers, rights, and jurisdiction of a marshal of a Type A general-law municipality; and

(2) other powers and duties prescribed by the governing body.

(f) A police officer may serve in each county in which the municipality is located all process issued by a municipal court. (V.A.C.S. Arts. 998 (part); Art. 1015, Subdiv. 18 (part).)

Sec. 341.002. POLICE FORCE OF TYPE C GENERAL-LAW MUNICIPALITY. The governing body of a Type C general-law municipality may appoint police officers that the governing body considers necessary and may define the duties of the officers. (V.A.C.S. Art. 1161 (part).)

Sec. 341.003. POLICE FORCE OF HOME-RULE MUNICIPALITY. A home-rule municipality may provide for a police department. (V.A.C.S. Art. 1175, Subdiv. 27 (part).)

[Sections 341.004–341.010 reserved for expansion]

SUBCHAPTER B. OTHER POLICE FORCES

Sec. 341.011. SPECIAL POLICE FORCE IN TYPE A GENERAL-LAW MUNICIPALITY. (a) The mayor of a Type A general-law municipality shall summon as many residents as the mayor considers necessary to serve as a special police force if the mayor considers the force necessary:

(1) to enforce the municipality's laws, avert danger, or protect life or property;

(2) because of riot, outbreak, calamity, or public disturbance; or

(3) because of threat of serious violation of law or order, of outbreak, or of other danger to the municipality or its inhabitants.

(b) The mayor may issue the summons by:

(1) proclamation or other order addressed to the residents of the municipality generally or to the residents of a ward or other subdivision of the municipality; or

(2) personal notice.

(c) A special police force has the powers of the regular police force of the municipality.

(d) A special police force is subject to the orders of the mayor and shall perform the duties required by the mayor. (V.A.C.S. Art. 995.)

Sec. 341.012. POLICE RESERVE FORCE. (a) The governing body of a municipality may provide for the establishment of a police reserve force.

(b) The governing body shall establish qualifications and standards of training for members of the reserve force.

(c) The governing body may limit the size of the reserve force.

(d) The chief of police shall appoint the members of the reserve force. Members serve at the chief's discretion.

(e) The chief of police may call the reserve force into service at any time the chief considers it necessary to have additional officers to preserve the peace and enforce the law.

(f) Members of a reserve force serve as peace officers during the actual discharge of official duties.

(g) An appointment to the reserve force must be approved by the governing body before the person appointed may carry a weapon or otherwise act as a peace officer. After the appointment is approved, the person appointed may carry a weapon only when authorized to do so by the chief of police and only when discharging official duties as a peace officer.

(h) Reserve police officers may act only in a supplementary capacity to the regular police force and may not assume the full-time duties of regular police officers without complying with the requirements for regular police officers.

(i) This section does not limit the authority of the mayor of a Type A general-law municipality to summon a special police force under Section 341.011. (V.A.C.S. Art. 998a, Secs. (a), (b), (c), (d), (g), (h).)

[Sections 341.013–341.020 reserved for expansion]

SUBCHAPTER C. MARSHALS

Sec. 341.021. MARSHAL OF TYPE A GENERAL-LAW MUNICIPALITY. (a) The marshal of a Type A general-law municipality is the ex officio chief of police.

(b) The marshal may appoint one or more deputies. The appointment of a deputy must be approved by the governing body of the municipality.

(c) The marshal or a deputy marshal shall be available to the municipal court when it is in session and shall promptly and faithfully execute writs and process issued by the court. The marshal may execute writs and serve process within each county in which the municipality is located, both inside and outside the municipal boundaries.

(d) The marshal may take suitable and sufficient bail for the appearance before the municipal court of a person charged with a violation of an ordinance or law of the municipality.

(e) The marshal has the same power and jurisdiction as the county sheriff to execute warrants, to prevent and suppress crime, and to arrest offenders. The marshal has other powers, not inconsistent with state law, that the governing body confers by ordinance.

(f) The marshal may close a theater, ballroom, or other place of public recreation or entertainment to prevent a breach of the peace or to preserve quiet and good order.

(g) The marshal shall:

- (1) quell riots, disorder, and disturbance of the peace in the municipality;
- (2) take into custody a person who disturbs the peace of the municipality;
- (3) arrest, without warrant, a person who disturbs the peace, otherwise engages in disorderly conduct or a disturbance, or obstructs or interferes with the performance of the marshal's duties; and
- (4) perform other duties, not inconsistent with state law, that the governing body prescribes by ordinance. (V.A.C.S. Art. 999 (part).)

Sec. 341.022. MARSHAL OF TYPE B GENERAL-LAW MUNICIPALITY. (a) The marshal of a Type B general-law municipality has the same power within the municipality that a constable has within a precinct and is entitled to the same fees as a constable.

(b) The marshal shall perform duties, not inconsistent with state law, prescribed by the bylaws and ordinances of the municipality for fees determined by the governing body of the municipality.

(c) The marshal is the tax assessor-collector of the municipality. (V.A.C.S. Art. 1147.)

[Sections 341.023–341.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 341.901. WATCHMEN IN TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law municipality may appoint watchmen and prescribe their powers and duties. (V.A.C.S. Art. 1015, Subdiv. 18 (part).)

Sec. 341.902. WORKHOUSE AND HOUSE OF CORRECTION IN TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality may build and establish one or more workhouses or houses of correction inside or outside the municipality.

(b) The governing body may adopt necessary rules and appoint necessary keepers or assistants for the workhouses or houses of correction.

(c) Vagrants and disorderly persons may be confined in a workhouse or house of correction on commitment by a municipal court judge. A person who fails or refuses to pay the fine or costs imposed for an offense may be confined in a workhouse or house of correction instead of a jail. (V.A.C.S. Art. 1015, Subdiv. 19.)

Sec. 341.903. AUTHORITY OF HOME-RULE MUNICIPALITY TO POLICE MUNICIPALLY OWNED PROPERTY OUTSIDE MUNICIPALITY. A home-rule municipality may police the following areas owned by and located outside the municipality:

- (1) parks and grounds;
- (2) lakes and land contiguous to and used in connection with a lake; and
- (3) speedways and boulevards. (V.A.C.S. Art. 1175, Subdiv. 19 (part).)

CHAPTER 342. MUNICIPAL FIRE PROTECTION

SUBCHAPTER A. PROVISIONS APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 342.001. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 342.002. RULES RELATING TO FRAME BUILDINGS

Sec. 342.003. FIRE REGULATIONS

Sec. 342.004. FIRE DEPARTMENT

Sec. 342.005. DESTRUCTION OF BUILDINGS; CLAIM

[Sections 342.006–342.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITY

Sec. 342.011. FIRE DEPARTMENT

Sec. 342.012. DESIGNATION OF FIRE LIMITS; REMOVAL OR DESTRUCTION OF STRUCTURES

[Sections 342.013–342.019 reserved for expansion]

SUBCHAPTER C. MUTUAL FIRE-PROTECTION AGREEMENTS

Sec. 342.020. MUTUAL FIRE-PROTECTION AGREEMENTS IN BORDER CITIES

CHAPTER 342. MUNICIPAL FIRE PROTECTION

SUBCHAPTER A. PROVISIONS APPLICABLE TO TYPE A

GENERAL-LAW MUNICIPALITY

Sec. 342.001. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type A general-law municipality. (New.)

Sec. 342.002. RULES RELATING TO FRAME BUILDINGS. (a) The governing body of the municipality may, for the purpose of preventing calamitous fires, prohibit the construction, location, relocation, or repair of wooden buildings within areas of the municipality designated by the governing body. Within those areas, the governing body may:

- (1) prohibit the relocation of a wooden building from outside the area to a site in the area;
- (2) prohibit the relocation of a wooden building from one site to another in the area;
- (3) direct that all buildings within the area be constructed of fireproof materials;
- (4) prohibit the rebuilding or repairing in the area of a wooden building that has been damaged to the extent of 50 percent or more of its value;
- (5) declare to be a nuisance any dilapidated building; and
- (6) declare to be a nuisance any wooden building that is in the area and that the governing body considers a danger to contiguous buildings or considers a cause or promoter of fires.

(b) The governing body may determine the method of ascertaining damage under Subsection (a)(4) and may direct the manner in which a building declared to be a nuisance under Subsection (a)(5) or (6) is to be repaired or removed or the nuisance is to be abated. (V.A.C.S. Art. 1067.)

Sec. 342.003. FIRE REGULATIONS. (a) The governing body of the municipality may:

- (1) prohibit dangerous chimneys, flues, fireplaces, stovepipes, ovens, and other apparatus used in or about any building, and require the apparatus to be removed or placed in a safe condition;
- (2) prohibit the unsafe deposit of ashes;
- (3) appoint officers who may enter any building or enclosure to examine and determine whether it is in a dangerous condition and, if the building or enclosure is in a dangerous condition, require that it be put in a safe condition;
- (4) require the inhabitant of a building to maintain as many fire buckets and means of access to the roof as prescribed by the governing body, and regulate the use of those items in the event of a fire;
- (5) require the owner or occupant of a building to maintain access to the roof and to stairs or ladders that lead to the roof;
- (6) prohibit or otherwise regulate factories and other works that pose a danger of promoting or causing fires;
- (7) prohibit or otherwise regulate the erection of cotton presses and sheds;
- (8) prohibit or otherwise regulate the use of fireworks and firearms;

(9) prohibit, direct, or otherwise regulate the keeping and management of buildings within the city that are used to store gunpowder or other combustible, explosive, or dangerous materials, and regulate the keeping and conveying of those materials;

(10) regulate the building of parapet or party walls;

(11) authorize the mayor or other municipal officers, including the officers of fire companies, to keep away from the vicinity of any fire all idle, disorderly, or suspicious persons, and to arrest and confine those persons;

(12) compel municipal officers and all other persons to aid in extinguishing fires, preserving property exposed to the danger of fire, and preventing theft; and

(13) adopt other rules for the prevention and extinguishment of fires as the governing body considers necessary.

(b) Subsection (a)(8) or (9) does not authorize a municipality to adopt any prohibition or other regulation in violation of Section 215.001. (V.A.C.S. Art. 1068.)

Sec. 342.004. FIRE DEPARTMENT. (a) The governing body of the municipality may organize a fire department consisting of fire companies and the chief and any assistant engineers. The governing body shall prescribe the powers and duties of the fire department and its officers.

(b) Each company may elect its own members and officers. A company may adopt a constitution and bylaws that are not inconsistent with the statutes and the municipal ordinances.

(c) The fire department engineers shall be chosen as determined by the department, subject to the approval of the governing body, which shall pass ordinances that it considers necessary for the welfare of the department. The mayor shall commission each elected officer approved by the governing body.

(d) The governing body may obtain fire engines and other fire-protection equipment, control the use of the equipment, and provide fire stations to preserve the equipment. The fire department shall maintain the fire engines and other fire-protection equipment. (V.A.C.S. Art. 1069.)

Sec. 342.005. DESTRUCTION OF BUILDINGS; CLAIM. (a) If a building in the municipality is on fire, the chief or acting chief engineer of the fire department with the concurrence of the mayor may order the burning building, or any other building determined to be hazardous and likely to transmit the fire to additional buildings, to be destroyed.

(b) Except as provided by Subsection (c), the municipality and the officers that act under Subsection (a) are not liable for damages resulting from the destruction.

(c) Within six months after the date a building is destroyed under this section, a person who has an interest in the building may apply in writing to the governing body of the municipality to request the governing body to assess and pay the damages of the person. If the governing body and the claimant cannot agree on the terms of adjustment, they shall refer the application to three commissioners, one appointed by the claimant, one appointed by the governing body, and one appointed jointly by both parties. The commissioners must be qualified voters and owners of real property in the municipality. The commissioners shall swear to faithfully execute their duty to the best of their ability. They may subpoena and swear witnesses. They shall give all parties a fair and impartial hearing and shall give notice of the time and place of each meeting. They shall take into account the probabilities of the destruction of the building by fire if the municipality had not destroyed the building and the loss of any insurance on the property caused by the destruction. They may report that no damages should equitably be allowed to the claimant. If a report is made and confirmed for the appraisal of the damages, compliance with the terms of that report by the governing body constitutes full satisfaction of those damages. (V.A.C.S. Art. 1070.)

[Sections 342.006–342.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITY

Sec. 342.011. **FIRE DEPARTMENT.** A home-rule municipality may provide for a fire department. (V.A.C.S. Art. 1175, Subdiv. 27 (part).)

Sec. 342.012. **DESIGNATION OF FIRE LIMITS; REMOVAL OR DESTRUCTION OF STRUCTURES.** (a) A home-rule municipality may establish fire limits and may prescribe the kind and character of structures and other improvements erected within those limits.

(b) The municipality may provide for the erection of fireproof buildings within certain limits and may condemn dangerous buildings or other structures, dilapidated buildings, or buildings considered to increase the hazard of fire. The municipality may provide for the manner of the removal or destruction of those buildings or structures. (V.A.C.S. Art. 1175, Subdiv. 25.)

[Sections 342.013–342.019 reserved for expansion]

SUBCHAPTER C. MUTUAL FIRE-PROTECTION AGREEMENTS

Sec. 342.020. **MUTUAL FIRE-PROTECTION AGREEMENTS IN BORDER CITIES.** (a) A municipality in this state that is located on the border between this state and the Republic of Mexico may make a mutual fire-protection agreement with its corresponding border municipality in the Republic of Mexico.

(b) Any fire fighter from a border municipality in this state who responds to a call for fire-fighting assistance from the corresponding border municipality in the Republic of Mexico under the terms of an agreement authorized by this section is performing the fire fighter's official duty for the purposes of Article III, Section 51–d, of the Texas Constitution. (V.A.C.S. Art. 1070b.)

[Chapters 343–350 reserved for expansion]

SUBTITLE B. COUNTY PUBLIC SAFETY

CHAPTER 351. COUNTY JAILS AND LAW ENFORCEMENT

SUBCHAPTER A. COUNTY JAIL FACILITIES

Sec. 351.001. **DUTY TO PROVIDE JAILS**

Sec. 351.002. **JAIL STANDARDS**

Sec. 351.003. **EXEMPTION**

Sec. 351.004. **STRUCTURAL AND MAINTENANCE REQUIREMENTS**

Sec. 351.005. **SEGREGATION REQUIREMENTS**

Sec. 351.006. **CAPACITY REQUIREMENTS**

Sec. 351.007. **SPACE REQUIREMENTS**

Sec. 351.008. **ACCESS TO DAY ROOM**

Sec. 351.009. **SAFETY VESTIBULE**

Sec. 351.010. **SANITATION AND HEALTH REQUIREMENTS**

Sec. 351.011. **FURNISHINGS OF CELLS, COMPARTMENTS, AND DORMITORIES**

Sec. 351.012. **FURNISHINGS OF DAY ROOMS**

Sec. 351.013. **BUNKS**

Sec. 351.014. **HOLDING INSANE PERSONS**

Sec. 351.015. **ENFORCEMENT**

[Sections 351.016–351.030 reserved for expansion]

SUBCHAPTER B. INTERCOUNTY COOPERATION FOR JAIL FACILITIES

- Sec. 351.031. CONTRACT
- Sec. 351.032. LOCATION OF FACILITY
- Sec. 351.033. FINANCING
- Sec. 351.034. ADMINISTRATOR
- Sec. 351.035. DUTIES

[Sections 351.036–351.040 reserved for expansion]

SUBCHAPTER C. OPERATION OF COUNTY JAILS

- Sec. 351.041. SHERIFF
- Sec. 351.042. JAIL ADMINISTRATOR IN BEXAR COUNTY
- Sec. 351.043. FEDERAL PRISONERS
- Sec. 351.044. PRISONER IN ANOTHER COUNTY'S JAIL

[Sections 351.045–351.060 reserved for expansion]

SUBCHAPTER D. CONTRACTS FOR LAW ENFORCEMENT SERVICES ON FEE BASIS

- Sec. 351.061. AUTHORITY TO CONTRACT
- Sec. 351.062. FEES
- Sec. 351.063. SERVICES BY SHERIFF OR COUNTY OFFICIAL
- Sec. 351.064. USE OF DEPUTIES
- Sec. 351.065. REPORTS BY DEPUTIES
- Sec. 351.066. DUTIES IN AREA SERVED BY MUNICIPAL POLICE
- Sec. 351.067. MUNICIPAL APPROVAL OF CONTRACT COVERING AREA WITHIN MUNICIPALITY

[Sections 351.068–351.080 reserved for expansion]

SUBCHAPTER E. COUNTY PARK RANGERS

- Sec. 351.081. ESTABLISHMENT IN POPULOUS COUNTIES
- Sec. 351.082. APPOINTMENT OF CHIEF
- Sec. 351.083. LAW ENFORCEMENT SERVICES IN COUNTY PARKS
- Sec. 351.084. STAFF; AUTHORITY AS PEACE OFFICERS

[Sections 351.085–351.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS LAW ENFORCEMENT PROVISIONS

- Sec. 351.901. DONATION TO CRIME STOPPERS ORGANIZATION
- Sec. 351.902. BUREAU OF CRIMINAL IDENTIFICATION

SUBTITLE B. COUNTY PUBLIC SAFETY

CHAPTER 351. COUNTY JAILS AND LAW ENFORCEMENT

SUBCHAPTER A. COUNTY JAIL FACILITIES

Sec. 351.001. **DUTY TO PROVIDE JAILS.** The commissioners court of a county shall provide safe and suitable jails for the county. (V.A.C.S. Art. 5115 (part).)

Sec. 351.002. **JAIL STANDARDS.** The jail standards prescribed by this subchapter are minimum standards for county jails. Each county jail must comply with the minimum

standards and the rules and procedures of the Commission on Jail Standards. (V.A.C.S. Art. 5115 (part).)

Sec. 351.003. EXEMPTION. (a) A county with a population not large enough to justify building a new county jail or remodeling an existing county jail in order to comply with the standards in this subchapter is exempt from this subchapter if the commissioners court contracts with another county to incarcerate its prisoners.

(b) The county must contract with the nearest county whose county jail meets the standards in this subchapter.

(c) The county shall pay to the other county a daily per capita rate equal to the cost of maintaining its prisoners in the county jail or a daily rate on which the counties agree. (V.A.C.S. Art. 5115 (part).)

Sec. 351.004. STRUCTURAL AND MAINTENANCE REQUIREMENTS. A county jail must be:

- (1) structurally sound;
- (2) fire resistant;
- (3) properly ventilated, heated, and lighted; and
- (4) kept in good repair. (V.A.C.S. Art. 5115 (part).)

Sec. 351.005. SEGREGATION REQUIREMENTS. A county jail must have solid walls constructed of masonry, metal, or a comparable material, designed to form separate enclosures to segregate the following classes of individuals:

- (1) witnesses from all classes of prisoners;
- (2) males from females;
- (3) juveniles from adults;
- (4) first offenders awaiting trial from all classes of convicted prisoners; and
- (5) prisoners with communicable diseases from all other classes of prisoners. (V.A.C.S. Art. 5115 (part).)

Sec. 351.006. CAPACITY REQUIREMENTS. (a) A county jail must have separate cells or compartments, dormitories, and day rooms of varying dimensions and capacities for prisoners.

(b) A cell or compartment must be designed to accommodate one to eight prisoners. However, if practicable, a cell or compartment should not be designed to accommodate two prisoners only.

(c) A dormitory or day room must be designed to accommodate not more than 24 prisoners.

(d) A county jail must provide enough one-person cells to accommodate 30 percent or more of its total designated prisoner capacity.

(e) A county jail may provide dormitory-type space to accommodate not more than 40 percent of its total designated prisoner capacity. (V.A.C.S. Art. 5115 (part).)

Sec. 351.007. SPACE REQUIREMENTS. (a) A county jail cell designed for one person only must have a floor area of 40 square feet or more.

(b) Any other cell, compartment, dormitory, or day room in a county jail, including a safety vestibule, must have a floor area of 18 square feet or more for each prisoner to be confined in the room.

(c) The ceiling height above the finished floor in a cell, compartment, dormitory, or day room in a county jail in which prisoners are confined must be eight feet or more. (V.A.C.S. Art. 5115 (part).)

Sec. 351.008. ACCESS TO DAY ROOM. A cell, compartment, or dormitory used in a county jail for sleeping purposes and designed to accommodate three or more prisoners must be accessible to a day room to which the prisoners may be given access during the day. (V.A.C.S. Art. 5115 (part).)

Sec. 351.009. SAFETY VESTIBULE. (a) To provide safety to officers and security, entrance to and exit from a cell block or a group of cells or compartments used to confine three or more prisoners in a county jail must be through a safety vestibule.

(b) A safety vestibule must have one or more interior doors in addition to the main outside entrance door to the cell block or group of cells or compartments. All the interior doors must be designed to be locked, unlocked, opened, and closed by a means located outside the cell block or group of cells or compartments. (V.A.C.S. Art. 5115 (part).)

Sec. 351.010. SANITATION AND HEALTH REQUIREMENTS. A county jail must be:

- (1) provided with safe water in ample quantity;
- (2) provided with sewage disposal facilities in accordance with good sanitation standards;
- (3) provided with food prepared and served in a palatable and sanitary manner according to good dietary practices and of sufficient quality to maintain good health; and
- (4) maintained in a clean and sanitary condition in accordance with standards of sanitation and health. (V.A.C.S. Art. 5115 (part).)

Sec. 351.011. FURNISHINGS OF CELLS, COMPARTMENTS, AND DORMITORIES. (a) A county jail cell designed for one prisoner only must have a toilet, a combination sink and drinking fountain, a table, and a seat.

(b) A county jail cell, compartment, or dormitory designed for three or more prisoners must have one toilet and one combination sink and drinking fountain for every 12 prisoners to be confined in the room. (V.A.C.S. Art. 5115 (part).)

Sec. 351.012. FURNISHINGS OF DAY ROOMS. (a) A day room designed in a county jail for three or more prisoners must have one toilet, one combination sink and drinking fountain, and one shower for every 12 prisoners to be confined in the room.

(b) A day room must be suitably furnished. (V.A.C.S. Art. 5115 (part).)

Sec. 351.013. BUNKS. (a) A cell, compartment, or dormitory in a county jail must have for each prisoner one bunk that is not less than two feet, three inches wide and not less than six feet, three inches long.

(b) Each bunk must have a clean, comfortable mattress and enough clean blankets for the prisoner's comfort. (V.A.C.S. Art. 5115 (part).)

Sec. 351.014. HOLDING INSANE PERSONS. (a) A person suspected to be or adjudged insane may not be held in a county jail unless the person:

- (1) demonstrates homicidal tendencies; and
- (2) must be restrained from committing acts of violence against other persons.

(b) A person requiring restraint under this section may be held in a county jail for not more than 24 hours. The person shall be kept under observation at all times.

(c) At the end of the 24-hour period, the person shall be released or taken to a hospital or mental hospital.

(d) A person held under this section shall be kept in a special enclosure or room for that purpose. The special enclosure or room must have:

- (1) a floor area of 40 square feet or more;
- (2) a ceiling height above the floor of eight feet or more;
- (3) a soft covering on the floor and walls, designed to protect a violent person from self-injury or destruction; and
- (4) one hammock made of an elastic or fibrous material that is not less than two feet, three inches wide and six feet, three inches long. (V.A.C.S. Art. 5115 (part).)

Sec. 351.015. ENFORCEMENT. This subchapter is enforceable by the Commission on Jail Standards. (V.A.C.S. Art. 5115 (part).)

[Sections 351.016–351.030 reserved for expansion]

SUBCHAPTER B. INTERCOUNTY COOPERATION FOR JAIL FACILITIES

Sec. 351.031. **CONTRACT.** (a) The commissioners courts of two or more counties may contract with each other for the joint operation of a jail to serve the counties.

(b) The contract may provide for the construction or acquisition of a facility or for the use of an existing facility. (V.A.C.S. Art. 5115c, Sec. 1 (part).)

Sec. 351.032. **LOCATION OF FACILITY.** A joint facility is not required to be located at the county seat of one of the counties. (V.A.C.S. Art. 5115c, Sec. 1 (part).)

Sec. 351.033. **FINANCING.** A county whose share of capital expenditures under the contract includes costs of acquiring land or acquiring, constructing, enlarging, or improving a joint facility may use any method of financing that share that would be available to the county if it operated its own jail, including issuing general obligation bonds or other evidences of indebtedness as provided by law. (V.A.C.S. Art. 5115c, Sec. 2.)

Sec. 351.034. **ADMINISTRATOR.** (a) The sheriff of the county in which the jail is located shall serve as administrator of the jail.

(b) The sheriff may decline to serve as administrator by filing a written statement with the commissioners court of that county.

(c) If the sheriff declines to serve as administrator, the commissioners courts of the contracting counties shall jointly appoint a jail administrator. Until an individual is appointed and assumes the duties of jail administrator, the sheriff shall serve as administrator of the jail.

(d) If there is a vacancy in the position of jail administrator, the sheriff shall serve as administrator of the jail until a new jail administrator is appointed and assumes the position. (V.A.C.S. Art. 5115c, Secs. 3(a), (c).)

Sec. 351.035. **DUTIES.** The sheriff or jail administrator has all the powers, duties, and responsibilities with regard to keeping prisoners and operating the jail that are given by law to the sheriff in a county operating its own jail. (V.A.C.S. Art. 5115c, Sec. 3(b).)

[Sections 351.036–351.040 reserved for expansion]

SUBCHAPTER C. OPERATION OF COUNTY JAILS

Sec. 351.041. **SHERIFF.** (a) The sheriff of each county is the keeper of the county jail. The sheriff shall safely keep all prisoners committed to the jail by a lawful authority, subject to an order of the proper court.

(b) The sheriff may appoint a jailer to operate the jail and meet the needs of the prisoners, but the sheriff shall continue to exercise supervision and control over the jail. (V.A.C.S. Art. 5116, Secs. (a), (b).)

Sec. 351.042. **JAIL ADMINISTRATOR IN BEXAR COUNTY.** The Commissioners Court of Bexar County may appoint a jail administrator who shall exercise all power, supervision, and control over the jail, including the duties imposed by law on the sheriff with respect to the jail. (V.A.C.S. Art. 5116, Sec. (c).)

Sec. 351.043. **FEDERAL PRISONERS.** (a) The sheriff or jailer may receive into the county jail a federal prisoner delivered by a federal law enforcement officer unless the sheriff or jailer determines that receipt of the prisoner may violate a state or federal court order, a statute, or a rule of the Commission on Jail Standards.

(b) The sheriff or jailer shall safely keep the prisoner until the prisoner is transferred or discharged by due course of law.

(c) The federal law enforcement officer on whose authority the prisoner is received and kept is directly and personally liable to the sheriff or jailer for the jail fees and other costs incurred in keeping the prisoner. The fees and costs shall be estimated according to laws regulating similar fees and costs in other cases.

(d) In this section, “federal law enforcement officer” has the meaning assigned by 5 U.S.C. Section 8331(20). (V.A.C.S. Art. 5117.)

Sec. 351.044. PRISONER IN ANOTHER COUNTY'S JAIL. A county to which a prisoner is sent due to the lack of a safe jail in the sending county may recover by suit from the sending county the cost of keeping the prisoner in an amount not to exceed 75 cents a day. (V.A.C.S. Art. 5118.)

[Sections 351.045–351.060 reserved for expansion]

SUBCHAPTER D. CONTRACTS FOR LAW ENFORCEMENT SERVICES ON FEE BASIS

Sec. 351.061. AUTHORITY TO CONTRACT. To protect the public interest, the commissioners court of a county may contract with a nongovernmental association for the provision of law enforcement services by the county on a fee basis in the geographical area represented by the association. (V.A.C.S. Art. 1581b–2, Sec. 1.)

Sec. 351.062. FEES. (a) The commissioners court shall determine the amount of the fee charged by the county. The fees must recover 100 percent of the cost to the county for supplying the law enforcement services, including salaries and any additional expenses the county may incur in providing the services. If the time of the sheriff or county official who provides the services is divided between services to the political subdivision and a nongovernmental association, the total cost to the association must be so prorated, as provided in the contract.

(b) The contract must provide for the payment of the fees to the county. The fees shall be deposited in the general fund of the county. (V.A.C.S. Art. 1581b–2, Sec. 2.)

Sec. 351.063. SERVICES BY SHERIFF OR COUNTY OFFICIAL. The commissioners court may request the sheriff of the county or a county official who has law enforcement authority to provide the services in the geographical area for which the official was elected or appointed. (V.A.C.S. Art. 1581b–2, Sec. 3(a).)

Sec. 351.064. USE OF DEPUTIES. (a) If the sheriff or county official agrees to provide the services, the sheriff or official may provide the services by using deputies. The sheriff or county official retains authority to supervise the deputies who provide the services and, in an emergency, may reassign the deputies to duties other than those to be performed under the contract.

(b) A deputy shall perform duties under the contract in the same manner as if the deputy were performing the duties in the absence of the contract.

(c) A deputy performing duties under the contract remains a county employee subject to the same benefits and restrictions as any other deputy. (V.A.C.S. Art. 1581b–2, Secs. 3(b), (c), (d).)

Sec. 351.065. REPORTS BY DEPUTIES. A deputy performing duties under the contract shall submit written copies of any felony offense report and subsequent copies of investigative reports to the sheriff and any municipal police department in the county that serves the area under contract. (V.A.C.S. Art. 1581b–2, Sec. 3, Subsec. (e).)

Sec. 351.066. DUTIES IN AREA SERVED BY MUNICIPAL POLICE. (a) A deputy performing duties in an area served by a municipal police department shall promptly notify the police department of the deputy's receipt and response to a complaint constituting a felony offense and on request shall secure and preserve the scene of the offense for a reasonable time until the arrival of a representative of the municipal police department.

(b) The county and municipal departments shall cooperate in any criminal investigation to the greatest degree practical. However, this section does not prohibit a county or municipal officer from performing any duties that are required of a peace officer. (V.A.C.S. Art. 1581b–2, Sec. 3(f).)

Sec. 351.067. MUNICIPAL APPROVAL OF CONTRACT COVERING AREA WITHIN MUNICIPALITY. (a) If, under a proposed contract, the county would provide law enforcement services within the corporate limits of a municipality, the county shall submit a copy of the proposed contract to the municipality for approval.

(b) The governing body of the municipality, after considering the individual contract, may disapprove the contract within 30 days after the date the contract is received in the municipal offices. If the governing body of the municipality approves the contract or

takes no action for the 30 days, the county may enter into the contract as provided in this subchapter. If the governing body of the municipality disapproves the contract, the county may not enter into the contract.

(c) The municipality and its officers and employees are not liable for any damage caused by the acts of a county official or employee providing services under the contract within the municipality. (V.A.C.S. Art. 1581b-2, Sec. 3(g).)

[Sections 351.068–351.080 reserved for expansion]

SUBCHAPTER E. COUNTY PARK RANGERS

Sec. 351.081. ESTABLISHMENT IN POPULOUS COUNTIES. The commissioners court of a county with a population of more than 2.2 million may establish a department of county park rangers. (V.A.C.S. Art. 6869d-1, Sec. 1.)

Sec. 351.082. APPOINTMENT OF CHIEF. The commissioners court shall appoint the county sheriff or other qualified person as chief of the department. The chief shall administer the department under the supervision of the commissioners court. (V.A.C.S. Art. 6869d-1, Sec. 2.)

Sec. 351.083. LAW ENFORCEMENT SERVICES IN COUNTY PARKS. The department shall provide law enforcement services within the county parks of the county. (V.A.C.S. Art. 6869d-1, Sec. 3.)

Sec. 351.084. STAFF; AUTHORITY AS PEACE OFFICERS. (a) To carry out the functions of the department, the chief shall employ county park rangers as peace officers and shall employ administrative staff in numbers approved by the commissioners court.

(b) The county park rangers have the same law enforcement authority that is given by law to deputy sheriffs except that the law enforcement jurisdiction of rangers is limited to the county parks of the county.

(c) The law of this state applying to deputy sheriffs applies, to the extent practicable, to county park rangers. (V.A.C.S. Art. 6869d-1, Sec. 4.)

[Sections 351.085–351.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS LAW ENFORCEMENT PROVISIONS

Sec. 351.901. DONATION TO CRIME STOPPERS ORGANIZATION. (a) In this section, “crime stoppers organization” means a private, nonprofit organization that is operated on a local or statewide level, that accepts and expends donations for rewards to persons who report to the organization information about criminal activity, and that forwards the information to the appropriate law enforcement agency.

(b) The commissioners court of a county by contract may donate money to one or more crime stoppers organizations for expenditure by the organizations for rewards. The total amount of all donations made in a calendar year may not exceed \$25,000. (V.A.C.S. Art. 2372bb.)

Sec. 351.902. BUREAU OF CRIMINAL IDENTIFICATION. (a) On written and sworn application by a sheriff stating the necessity for the purchase, the commissioners court may purchase equipment for a bureau of criminal identification.

(b) The equipment must be compatible with the equipment used for this purpose by the Department of Public Safety, the United States Department of Justice, or the United States Bureau of Criminal Identification. The equipment may include items such as cameras, fingerprint cards, inks, chemicals, microscopes, radio and laboratory equipment, filing cards, filing cabinets, and tear gas.

(c) A purchase allowed under this section must be made by the sheriff by requisition in the manner provided by the county auditor or, if the county does not have a county auditor, by the commissioners court. (V.A.C.S. Art. 3899, Secs. (a) (part), (b) (part).)

CHAPTER 352. COUNTY FIRE PROTECTION

SUBCHAPTER A. PROTECTION OF COUNTY RESIDENTS

- Sec. 352.001. FIRE PROTECTION OF COUNTY RESIDENTS
- Sec. 352.002. USE OF SURPLUS OR SALVAGE PROPERTY BY VOLUNTEER FIRE DEPARTMENT
- Sec. 352.003. FIRE PROTECTION IN CERTAIN COUNTIES
- Sec. 352.004. AGENCY; LIABILITY
- Sec. 352.005. CONTRACTUAL PROVISION OF FIRE-FIGHTING EQUIPMENT OR SERVICES

[Sections 352.006–352.010 reserved for expansion]

SUBCHAPTER B. COUNTY FIRE MARSHAL

- Sec. 352.011. CREATION OF OFFICE; TERM
- Sec. 352.012. QUALIFICATIONS FOR OFFICE
- Sec. 352.013. INVESTIGATION OF FIRES
- Sec. 352.014. RECORD OF INVESTIGATION
- Sec. 352.015. ARSON INVESTIGATION
- Sec. 352.016. INSPECTION FOR FIRE HAZARDS
- Sec. 352.017. PRIVACY OF EXAMINATIONS; SERVICE OF PROCESS
- Sec. 352.018. EFFECT ON CIVIL ACTIONS
- Sec. 352.019. COOPERATION WITH OTHER FIRE PROTECTION AGENCIES
- Sec. 352.020. LIABILITY
- Sec. 352.021. CONTEMPT OF FIRE INVESTIGATION PROCEEDINGS
- Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER
- Sec. 352.023. EXEMPTION

CHAPTER 352. COUNTY FIRE PROTECTION

SUBCHAPTER A. PROTECTION OF COUNTY RESIDENTS

Sec. 352.001. FIRE PROTECTION OF COUNTY RESIDENTS. (a) The commissioners court of a county may furnish fire protection or fire-fighting equipment to the residents of the county or of an adjoining county who live outside municipalities.

(b) The commissioners court may:

- (1) purchase fire trucks or other fire-fighting equipment;
- (2) issue time warrants and levy and collect taxes to pay the principal of and interest on the time warrants as provided by law; and
- (3) contract with the governing body of a municipality located within the county or within an adjoining county to use fire trucks or other fire-fighting equipment that belongs to the municipality.

(c) The commissioners court of a county may contract with an incorporated volunteer fire department that is located within the county to provide fire protection to an area of the county that is located outside the municipalities in the county. The court may pay for that protection from the general fund of the county. (V.A.C.S. Arts. 2351a-1 (part), 2351a-5(b).)

Sec. 352.002. USE OF SURPLUS OR SALVAGE PROPERTY BY VOLUNTEER FIRE DEPARTMENT. (a) In this section:

- (1) "Surplus property" means personal property that is in excess of the needs of its owner, that is not required for the owner's foreseeable needs, and that possesses some usefulness for the purpose for which it was intended or for some other purpose.

(2) "Salvage property" means personal property, other than wastepaper, that because of use, time, or accident is so damaged, used, or consumed that it has no value for the purpose for which it was originally intended.

(b) The commissioners court of a county may contract to supply surplus or salvage property to any incorporated volunteer fire department with which the commissioners court has contracted under Section 352.001. (V.A.C.S. Arts. 2351a-5(a), (c).)

Sec. 352.003. FIRE PROTECTION IN CERTAIN COUNTIES. (a) For use in protecting bridges, county shops, county warehouses, and other property located outside the municipalities in a county with a population of 350,001 to 449,999, the commissioners court of the county may:

(1) purchase fire trucks and other fire-fighting equipment; and

(2) contract with a centrally located municipality within the county for the operation and maintenance of the equipment.

(b) In a county with a population of less than 20,000 and a property valuation of more than \$100 million according to the most recently approved county tax rolls, the commissioners court of the county may:

(1) contract with the governing bodies of municipalities in the county for the furnishing by the municipalities of fire protection outside the municipalities; and

(2) appropriate funds to pay the municipalities. (V.A.C.S. Arts. 2351a-2, 2351b-1.)

Sec. 352.004. AGENCY; LIABILITY. (a) In this section, "furnishing fire protection" includes traveling to or from a fire.

(b) The act of a person who, in carrying out a county's authority to provide fire protection, furnishes fire protection to a county resident who lives outside the municipalities in the county, including the act of a person who is a regular employee or fire fighter of a municipality, is considered to be the act of an agent of the county.

(c) A municipality is not liable for the act of its employee in fighting fires outside the municipality under a contract between the commissioners court of the county and the governing body of the municipality. (V.A.C.S. Art. 2351a-1 (part).)

Sec. 352.005. CONTRACTUAL PROVISION OF FIRE-FIGHTING EQUIPMENT OR SERVICES. (a) This section applies to a county with a population of 350,000 or more.

(b) By an order or resolution passed by majority vote, the governing body of a municipality that has a volunteer fire department recognized by the State Board of Insurance may petition the commissioners court to furnish fire-fighting equipment to the municipality. The commissioners court may contract with the petitioning governing body to furnish the equipment if the governing body shows that the municipality is eligible to receive the service and benefit of the equipment by compliance with this section.

(c) A group of at least 25 county residents who live in an unincorporated community in the county, who are qualified to vote in a county bond election, and who have organized or will organize within a reasonable time a volunteer fire department recognized by the State Board of Insurance may petition the commissioners court of the county to furnish fire-fighting equipment to the group. The commissioners court may contract with the petitioning residents to furnish the equipment.

(d) The commissioners court may provide the fire-fighting equipment for the use and benefit of the petitioner under a contract subject to the conditions that the petitioner shall:

(1) furnish a satisfactory place in which to keep the equipment;

(2) pay all the costs of operating the equipment; and

(3) furnish the personnel necessary to operate the equipment.

(e) The county shall keep the fire-fighting equipment in good working order and make all necessary repairs or replacements. The commissioners court shall determine if a repair or replacement is necessary and shall require that repair work, including labor and materials, be provided as much as possible by the court's shops that it designates. The commissioners court may provide the petitioner with at least one emergency unit of fire-fighting equipment to be used while the regular unit is being repaired or replaced.

The commissioners court may use an available truck or other equipment if it is unable to acquire a new truck or equipment for the purpose of building or equipping the fire-fighting equipment.

(f) The petitioner is responsible for the safekeeping of the fire-fighting equipment and is liable to the county for any loss through theft, or, if the petitioner is a municipality, through negligence by an officer, agent, or employee of the municipality, or, if the petitioner is a group of county residents, through negligence by one of those residents who handles or operates the equipment.

(g) Before a unit of fire-fighting equipment is delivered to a petitioner, the petitioner must post a bond with good and sufficient surety, payable to the county, in an amount fixed by the commissioners court that does not exceed the initial cost of the unit of fire-fighting equipment. The bond must be conditioned on payment to the county of the amount of the actual loss to each unit of equipment, or part of a unit, that results from theft or negligence for which the petitioner is liable.

(h) The fire-fighting equipment shall remain in the county. The commissioners court may inspect the equipment at any time and may repossess the equipment for noncompliance with this section by the petitioner.

(i) For the purpose of fighting fires outside the limits of a municipality, the commissioners court may contract with any municipality in the county for the use of fire-fighting equipment and the use and service of the equipment by the municipal fire department. The contract shall be on the terms and conditions agreed to by the commissioners court and the governing authority of the municipality. The commissioners court shall pay the costs of the items covered by the contract from the general fund of the county.

(j) Fire-fighting equipment purchased by a county for the purpose of furnishing equipment under this section is subject to the competitive bidding requirements applicable to other county purchases.

(k) The commissioners court shall pay the costs of administering this section from the general fund of the county. (V.A.C.S. Art. 2351a-3.)

[Sections 352.006-352.010 reserved for expansion]

SUBCHAPTER B. COUNTY FIRE MARSHAL

Sec. 352.011. CREATION OF OFFICE; TERM. (a) The commissioners court of a county may establish the office of county fire marshal and provide office facilities, equipment, transportation, assistants, and professional services for that office.

(b) The commissioners court shall establish the term of office for a county fire marshal for a period not to exceed two years. (V.A.C.S. Art. 1606c, Sec. 1 (part).)

Sec. 352.012. QUALIFICATIONS FOR OFFICE. (a) To qualify for office, the county fire marshal must take the oath prescribed by the constitution of this state and post a bond as required by the commissioners court conditioned that the marshal will faithfully and strictly perform the duties of the office.

(b) The county fire marshal may not be directly or indirectly interested in the sale of fire-fighting equipment and may not be engaged in any type of fire insurance business. (V.A.C.S. Art. 1606c, Sec. 6.)

Sec. 352.013. INVESTIGATION OF FIRES. (a) The county fire marshal shall:

(1) investigate the cause, origin, and circumstances of each fire that occurs within the county but outside the municipalities in the county and that destroys or damages property; and

(2) determine whether the fire was the result of negligent or intentional conduct.

(b) The county fire marshal shall begin this investigation within 24 hours after the receipt of information regarding a fire. The 24-hour period does not include a Sunday.

(c) In the performance of official duties, the county fire marshal, at any time of day, may enter and examine a structure where a fire has occurred and may examine adjacent premises. The marshal shall conduct this examination in a manner designed to impose

the least inconvenience to any persons living in the building. (V.A.C.S. Art. 1606c, Secs. 2, 7 (part).)

Sec. 352.014. RECORD OF INVESTIGATION. (a) The county fire marshal shall keep a record of each fire that the marshal is required to investigate. The record must include the facts, statistics, and circumstances determined by the investigation, including the origin of the fire and the estimated amount of the loss.

(b) The county fire marshal shall keep the record in the marshal's office. The record must be in a legible, permanent form that is at all times accessible and open for inspection. (V.A.C.S. Art. 1606c, Sec. 3.)

Sec. 352.015. ARSON INVESTIGATION. (a) If the county fire marshal determines that further investigation of a fire or of an attempt to set a fire is necessary, the marshal may:

- (1) subpoena witnesses to testify regarding the fire or attempt;
- (2) administer oaths to the witnesses;
- (3) take and preserve written statements, affidavits, and depositions; and
- (4) require the production of an instrument that is pertinent to the investigation.

(b) The county fire marshal shall file in a court of competent jurisdiction a complaint charging arson, attempted arson, conspiracy to defraud, or any other crime against a person the marshal believes to be guilty.

(c) The county fire marshal shall file charges under Section 352.021 in a court of competent jurisdiction against a witness who refuses to cooperate with the investigation. (V.A.C.S. Art. 1606c, Sec. 4 (part).)

Sec. 352.016. INSPECTION FOR FIRE HAZARDS. (a) In this section, "fire hazard" means any of the following conditions that endanger the safety of a structure or its occupants and promote or cause fire or combustion:

- (1) the presence of a flammable substance;
- (2) a dangerous or dilapidated wall, ceiling, or other structural element;
- (3) improper lighting, heating, or other facilities;
- (4) the presence of a dangerous chimney, flue, pipe, main, or stove, or of dangerous wiring; or
- (5) dangerous storage.

(b) In the interest of safety and fire prevention, the county fire marshal may inspect any structure for fire hazards, and the marshal shall inspect a structure for fire hazards if called on to do so. If the marshal determines the presence of a fire hazard, the marshal may order the owner or occupant of the premises to correct the hazardous situation. (V.A.C.S. Art. 1606c, Sec. 7 (part).)

Sec. 352.017. PRIVACY OF EXAMINATIONS; SERVICE OF PROCESS. (a) In a proceeding under this subchapter, the county fire marshal may:

- (1) conduct an investigation or examination in private;
- (2) exclude a person who is not under examination; and
- (3) separate witnesses from each other until each witness is examined.

(b) Service of process required by this subchapter shall be made by a constable or sheriff and shall be signed by the county fire marshal. (V.A.C.S. Art. 1606c, Sec. 5.)

Sec. 352.018. EFFECT ON CIVIL ACTIONS. (a) An action taken by a county fire marshal in the investigation of a fire does not affect the rights of a policyholder or of any company regarding a loss caused by the fire.

(b) The result of an investigation by the county fire marshal of a fire may not be admitted in evidence in the trial of a civil action brought under the insurance policy.

(c) The statement of an insurance company, the company's officers, agents, or adjusters, or of a policyholder or the policyholder's representative, that is made to the county fire marshal or his representative with respect to the origin or cause or supposed

origin or cause of the fire may not be admitted in evidence in or made the basis of a civil action for damages. (V.A.C.S. Art. 1606c, Sec. 9.)

Sec. 352.019. COOPERATION WITH OTHER FIRE PROTECTION AGENCIES. (a) The county fire marshal shall enforce all state and county regulations that relate to fires, explosions, or damages of any kind caused by a fire or explosion.

(b) The county fire marshal shall coordinate the work of the various fire-fighting and fire prevention units in the county.

(c) The county fire marshal may not enforce orders and decrees within a municipality in the county and may act in a cooperative and advisory capacity there only on request.

(d) The county fire marshal shall cooperate with the state fire marshal to conduct fire prevention and fire-fighting activities or postfire investigations. The county fire marshal shall aid or conduct an investigation in a municipality if requested by the state fire marshal, the municipality, or the fire chief of the municipality. (V.A.C.S. Art. 1606c, Sec. 8.)

Sec. 352.020. LIABILITY. The county fire marshal and the assistants and employees of the office are not liable in damages for any acts or omissions in the performance of their duties except in cases of gross negligence or wilful malfeasance. (V.A.C.S. Art. 1606c, Sec. 1 (part).)

Sec. 352.021. CONTEMPT OF FIRE INVESTIGATION PROCEEDINGS. (a) A person commits an offense if the person is a witness in connection with an investigation under Section 352.015 and refuses to be sworn, refuses to appear and testify, or fails and refuses to produce before the county fire marshal any book, paper, or other document relating to any matter under investigation if called on by the marshal to do so.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$25. (V.A.C.S. Art. 1606c, Sec. 4 (part).)

Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. An owner or occupant who is subject to an order issued under Section 352.016 commits an offense if he fails to comply with the order. The offense is a Class B misdemeanor. Each refusal to comply is a separate offense. (V.A.C.S. Art. 1606c, Sec. 7 (part).)

Sec. 352.023. EXEMPTION. This subchapter does not apply to a state agency that is authorized to prevent and extinguish forest and grass fires. (V.A.C.S. Art. 1606c, Sec. 1 (part).)

[Chapters 353–360 reserved for expansion]

SUBTITLE C. PUBLIC SAFETY PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 361. MUNICIPAL AND COUNTY AUTHORITY RELATING TO JAILS

SUBCHAPTER A. CRIMINAL JUSTICE CENTER IN CERTAIN MUNICIPALITIES AND COUNTIES

Sec. 361.001. MUNICIPALITIES AND COUNTIES COVERED BY SUBCHAPTER

Sec. 361.002. CRIMINAL JUSTICE CENTER; OFFICE RESTRICTION INAPPLICABLE

Sec. 361.003. CONTRACT PROVISIONS RELATING TO JOINT CENTER

Sec. 361.004. GRANTS AND LOANS

[Sections 361.005–361.020 reserved for expansion]

SUBCHAPTER B. JUSTICE CENTERS LOCATED ON STATE LINE

Sec. 361.021. DEFINITION

Sec. 361.022. CONTRACT TO PROVIDE JUSTICE CENTER

Sec. 361.023. CONTRACTUAL AUTHORITY CONTINGENT ON LEGISLATION OF OTHER STATE

- Sec. 361.024. FINANCING OF JUSTICE CENTER
- Sec. 361.025. MANAGEMENT OF JUSTICE CENTER; PERSONNEL
- Sec. 361.026. RESPONSIBILITY FOR OPERATION OF JAIL
- Sec. 361.027. COURTROOMS AND COURT PROCEEDINGS AT JUSTICE CENTER
- Sec. 361.028. EXTENT TO WHICH EACH STATE'S LAW APPLIES AT JUSTICE CENTER
- Sec. 361.029. ARREST, PROSECUTION, EXTRADITION, AND SERVICE OF PROCESS AT JUSTICE CENTER

[Sections 361.030–361.040 reserved for expansion]

SUBCHAPTER C. JOINT MUNICIPAL AND COUNTY JAIL FACILITIES
IN CERTAIN COUNTIES

- Sec. 361.041. MUNICIPAL-COUNTY JAIL FACILITIES IN COUNTY WITH POPULATION OF LESS THAN 20,000
- Sec. 361.042. MUNICIPAL-COUNTY JAIL FACILITIES IN COUNTY WITH POPULATION OF 84,000 TO 86,000
- Sec. 361.043. JAILER FOR MUNICIPAL-COUNTY JAIL FACILITIES

SUBTITLE C. PUBLIC SAFETY PROVISIONS APPLYING TO MORE THAN ONE
TYPE OF LOCAL GOVERNMENT

CHAPTER 361. MUNICIPAL AND COUNTY AUTHORITY RELATING TO JAILS

SUBCHAPTER A. CRIMINAL JUSTICE CENTER IN CERTAIN
MUNICIPALITIES AND COUNTIES

Sec. 361.001. MUNICIPALITIES AND COUNTIES COVERED BY SUBCHAPTER.
This subchapter applies only to:

- (1) a municipality that has a population of more than 17,500 and is not the county seat; and
- (2) the county in which that municipality is located. (V.A.C.S. Art. 2370c-2, Sec. 1.)

Sec. 361.002. CRIMINAL JUSTICE CENTER; OFFICE RESTRICTION INAPPLICABLE. (a) The municipality and county jointly or severally may own, construct, equip, enlarge, and maintain as a criminal justice center one or more buildings located in the municipality.

(b) The criminal justice center must provide public facilities related or incidental to the administration of criminal justice and may include:

- (1) accommodations for the handling, processing, and detention of prisoners;
- (2) offices for state, county, and municipal administrative and judicial officials;
- (3) courtrooms; and
- (4) parking facilities.

(c) A county officer may maintain office facilities in the criminal justice center in addition to any office facilities maintained at the county seat, notwithstanding Section 291.002 or any other law that restricts the location of county offices to the county seat of the county. (V.A.C.S. Art. 2370c-2, Secs. 2, 5.)

Sec. 361.003. CONTRACT PROVISIONS RELATING TO JOINT CENTER. (a) If the municipality and county agree to jointly provide a criminal justice center, they may specify by contract the purposes, terms, rights, and responsibilities of each of the parties, including the:

- (1) amount of money to be contributed by each party for land acquisition costs, building acquisition costs, construction costs, and equipment costs, or the proportionate amount of those costs that each party is to pay;
- (2) method or methods by which that money is to be provided;

- (3) account or accounts in which the money is to be deposited;
 - (4) party that is to award construction contracts and other contracts, or that the contracts are to be awarded by action of both parties; and
 - (5) manner by which disbursements of the money are to be authorized.
- (b) The municipality and county may specify in the contract that the money required to meet the costs of providing the center shall be derived:
- (1) from current income and funds on hand that are budgeted by the municipality and county for that purpose;
 - (2) through the issuance of bonds by either or both of them under the procedures prescribed for the issuance of general obligation bonds for other public buildings and purposes;
 - (3) by the issuance by either or both of them of certificates of obligation under the Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271); or
 - (4) through a combination of those methods.
- (c) Instead of or in combination with the use of taxing power in the payment of bonds or certificates of obligation issued under Subsection (b), those bonds or certificates may be payable from and secured by income derived from the facilities of the criminal justice center, including income from leases and from the proceeds of parking or other fees.
- (d) The contract may provide for the creation of an administrative agency or may designate one of the parties to supervise the accomplishment of the purposes of the contract and to operate and maintain the criminal justice center. The administrative agency or designated party may employ personnel and may engage in other administrative activities as necessary to accomplish the purposes of the contract and to operate and maintain the criminal justice center. (V.A.C.S. Art. 2370c-2, Secs. 3, 4 (part).)

Sec. 361.004. GRANTS AND LOANS. To finance the facilities of the criminal justice center, the municipality or county jointly or severally may accept grants, gratuities, advances, and loans from the United States, this state, an agency of this state, a private or public corporation, or any other person. (V.A.C.S. Art. 2370c-2, Sec. 4 (part).)

[Sections 361.005–361.020 reserved for expansion]

SUBCHAPTER B. JUSTICE CENTERS LOCATED ON STATE LINE

Sec. 361.021. DEFINITION. In this subchapter, "law" means a state statute, a written opinion of a court of record, a municipal ordinance, an order of the commissioners court of a county, or a rule adopted under a statute. (V.A.C.S. Art. 2370c-3, Sec. 1 (1).)

Sec. 361.022. CONTRACT TO PROVIDE JUSTICE CENTER. (a) A county in this state and a municipality in that county, both of which are located on the state line, may contract with an adjoining county of the other state and any municipality in that county for the joint construction, financing, operation, and management of a justice center located on the state line. The municipality in this state need not be the county seat of the county.

- (b) The contract may provide that the justice center contain:
- (1) courtrooms and office space needed by municipal, justice, county, district, and appellate courts;
 - (2) jail, lockup, and other detention facilities;
 - (3) federal, county, precinct, and municipal offices for prosecuting attorneys and other personnel as needed;
 - (4) adult or juvenile probation offices;
 - (5) other offices that either county or either municipality is separately authorized or required to operate or provide; or
 - (6) parking facilities, dining areas, and other facilities incidental to the operation of the center. (V.A.C.S. Art. 2370c-3, Sec. 2(a).)

Sec. 361.023. **CONTRACTUAL AUTHORITY CONTINGENT ON LEGISLATION OF OTHER STATE.** A county or municipality in this state may make the contract only if the other state enacts legislation that relates to the establishment of a justice center under a contract and that:

- (1) assigns responsibility for the operation of the detention facilities in the center in the manner required by Section 361.026;
- (2) provides for the application and enforcement of the law of both states in the manner provided by Section 361.028;
- (3) contains provisions authorizing the arrest, prosecution, transfer, and control of persons as prescribed by Sections 361.029(a)(2), (d), (e), and (f)(2);
- (4) authorizes peace officers to take the actions authorized by Sections 361.029(j) and (k); and
- (5) provides that:
 - (A) a person in custody in the center under the law of this state may not be prosecuted for an offense against the law of the other state without extradition and may not be personally served with process in the center for a proceeding in the other state;
 - (B) a person summoned to appear in the center under the law of this state may not be personally served with process in any part of the center for a proceeding in the other state; and
 - (C) a person summoned to appear in the center under the law of this state may not be arrested in any part of the center for an offense against the law of the other state. (V.A.C.S. Art. 2370c-3, Sec. 9.)

Sec. 361.024. **FINANCING OF JUSTICE CENTER.** The governing body of the municipality or county in this state that makes the contract may finance its share of the construction, operation, management, or other financing costs of the justice center by any means, including the use of available federal funds, that the governing body may use to finance the type of facilities that the municipality or county will use in or provide to the center. (V.A.C.S. Art. 2370c-3, Sec. 3.)

Sec. 361.025. **MANAGEMENT OF JUSTICE CENTER; PERSONNEL.** (a) The contracting parties may specify in the contract the manner of determining the persons responsible for the:

- (1) operation, alteration, maintenance, cleaning, and repair of the justice center facilities;
- (2) employment of the center personnel;
- (3) purchase of materials, supplies, tools, and other equipment to be jointly used by offices provided or used by the contracting parties;
- (4) preparation of reports to be made to the governing bodies of the contracting parties;
- (5) joint record-keeping, communications, or dispatch systems; and
- (6) performance of any other powers or duties relating to the operation of the center.

(b) The contracting parties may provide in the contract the manner of determining the personnel policies and employment benefit programs for personnel of the justice center. (V.A.C.S. Art. 2370c-3, Secs. 4, 5.)

Sec. 361.026. **RESPONSIBILITY FOR OPERATION OF JAIL.** The contract must provide:

- (1) that the sheriffs of the two counties are jointly responsible for the operation of any jail, lockup, or other detention facility in the justice center and for the custody, care, and treatment of persons in custody in that facility; or
- (2) for the employment of a jailer who shall exercise those responsibilities. (V.A.C.S. Art. 2370c-3, Sec. 6.)

Sec. 361.027. COURTROOMS AND COURT PROCEEDINGS AT JUSTICE CENTER. (a) A court of appeals or a district, county, justice, or municipal court with jurisdiction in the county or municipality in which a part of the justice center is located may maintain offices and courtrooms and may hold proceedings at the center, except that

(1) only a justice court for the precinct in which the part of the justice center in this state is located may maintain an office and courtroom in the center; and

(2) a court of this state may not hold proceedings in the part of the center that is located in the other state.

(b) A court of the other state may hold proceedings in the part of the justice center that is located in this state. (V.A.C.S. Art. 2370c-3, Secs. 2(b), (c).)

Sec. 361.028. EXTENT TO WHICH EACH STATE'S LAW APPLIES AT JUSTICE CENTER. (a) Except as otherwise provided by this subchapter, the law of both states that relates to the rights, duties, liabilities, privileges, and immunities arising from conduct applies to conduct that occurs in any part of the justice center. If it is impossible for a person in the center to conform the person's conduct to the law of both states, the person may choose which state's law governs the conduct. If the person elects to follow the law of the other state, the conflicting law of this state does not apply to the conduct.

(b) The physical plant of the justice center and the equipment and facilities used by personnel of both states who are employed at the center are constructively located in both states.

(c) Except as provided by Subsection (d), property located in any part of the justice center that is owned by or is in the possession of a person who is in custody at, or who is summoned to appear in, the center, is constructively located in the state under the law of which the person was taken into custody or was summoned to appear.

(d) Subsection (a) applies to conduct committed in the justice center that constitutes an offense relating to the possession of property. Subsection (a) also applies to a person's exercise of a duty relating to property located in the justice center.

(e) Property that is ordered by a court to be produced in the justice center or that is in the possession of a peace officer or a party to a proceeding for use as evidence before a court holding a proceeding in the center is constructively located in the state in which the court has jurisdiction.

(f) Any property located in the justice center that is not covered by Subsection (c), (d), or (e) is constructively located in both states.

(g) The law of the state in which property is constructively located applies to that property to the same extent that that law would apply if the property were actually located in that state. If property is constructively located in only one state, the law of the state in which the property is not constructively located applies to that property only to the extent that the law of that state would apply if the property were actually located outside that state.

(h) Except as otherwise provided by this subchapter, the courts of both states have concurrent jurisdiction over the geographic area covered by the justice center. However, the state in which a prosecution for an offense committed in the justice center is first instituted may exercise its jurisdiction to the exclusion of the other state's jurisdiction unless the prosecution is terminated without the attachment of jeopardy under the law of the state of the initial prosecution. For the purposes of this subsection, prosecution is instituted in this state on the filing of an indictment, an information, or a complaint. The attachment of jeopardy in this state is determined by Article 27.05, Code of Criminal Procedure. (V.A.C.S. Art. 2370c-3, Sec. 7.)

Sec. 361.029. ARREST, PROSECUTION, EXTRADITION, AND SERVICE OF PROCESS AT JUSTICE CENTER. (a) A person who is in the justice center in the custody, under the law of this state, of a peace officer or center personnel:

(1) is constructively present in this state while the person is in custody in the part of the center located in the other state;

(2) may be prosecuted for an offense against the law of this state without extradition; and

- (3) may be personally served with process in any part of the center for a proceeding in this state.
- (b) A person who is in the justice center in the custody, under the law of the other state, of a peace officer or center personnel:
 - (1) is constructively present in the other state while the person is in custody in the part of the center located in this state;
 - (2) may not be prosecuted for an offense against the law of this state without extradition; and
 - (3) may not be personally served with process in any part of the center for a proceeding in this state.
- (c) This state agrees that a person who is in the justice center in the custody, under the law of the other state, of a peace officer or center personnel may be:
 - (1) prosecuted for an offense against the law of the other state without extradition; and
 - (2) personally served with process in any part of the center for a proceeding in the other state.
- (d) Justice center personnel or a peace officer of either state may transfer across the state line in the center a person who is in custody in the center under the law of either state and may exercise control over the person on both sides of the state line.
- (e) A person who is present in the justice center but who has not been confined in the center, taken to the center under arrest, or summoned to appear in the center, may be arrested without extradition in any part of the center for an offense against the law of either state. Extradition of a person arrested in the justice center under those circumstances is not required for prosecution of the person if the person is actually present in any part of the center or in the state of the prosecution at the time of the prosecution.
- (f) A person who is summoned to appear in the justice center under the law of this state:
 - (1) is constructively present in this state while that person is appearing under the summons in the part of the center located in the other state;
 - (2) may be arrested in any part of the center for an offense committed against the law of this state and prosecuted for that offense without extradition if the person is actually present in any part of the center or in this state at the time of the prosecution; and
 - (3) may be personally served with process in any part of the center for a proceeding in this state.
- (g) A person who is summoned to appear in the justice center under the law of the other state:
 - (1) is constructively present in the other state while that person is appearing under the summons in the part of the center located in this state;
 - (2) may not be arrested, without extradition, under the law of this state in any part of the center for an offense against the law of this state; and
 - (3) may not be personally served with process in any part of the center for a proceeding in this state.
- (h) This state agrees that a person who is summoned to appear in the justice center under the law of the other state may be:
 - (1) arrested in any part of the center for an offense against the law of the other state and prosecuted for that offense without extradition if the person is actually present in any part of the center or in the other state at the time of the prosecution; and
 - (2) personally served with process in any part of the center for a proceeding in the other state.
- (i) If a person in the justice center is constructively present in one state under this section, the law of the state in which the person is not constructively present may be applied to the person only to the extent that the law of that state would apply if the

person were actually outside that state. However, the law applicable to that person's conduct while in the justice center is governed by Section 361.028, and the question of whether extradition is required to arrest or prosecute that person for an offense committed in the center is governed by this section.

(j) A peace officer of this state may:

(1) arrest a person under the law of this state in the part of the justice center located in the other state for an offense against the law of this state if that peace officer is authorized to make that arrest in the part of the center located in this state; and

(2) arrest a person under the law of the other state in any part of the center for an offense against the law of the other state if a peace officer of the other state is authorized to make that arrest in the part of the center located in the other state.

(k) This state agrees that a peace officer of the other state may:

(1) arrest a person under the law of this state in any part of the justice center for an offense against the law of this state if a peace officer of this state is authorized to make that arrest in the part of the center located in this state, and

(2) arrest a person under the law of the other state in the part of the justice center located in this state for an offense against the law of the other state if that peace officer is authorized to make that arrest in the part of the center located in the other state.

(l) Notwithstanding Sections 3 and 6, Article 51.13, Code of Criminal Procedure, the governor of this state may recognize a demand for the extradition of a person charged with a crime in the other state if the demand alleges that any element of the offense occurred in any part of the justice center. (V.A.C.S. Art. 2370c-2, Sec. 8.)

[Sections 361.030–361.040 reserved for expansion]

SUBCHAPTER C. JOINT MUNICIPAL AND COUNTY JAIL FACILITIES IN CERTAIN COUNTIES

Sec. 361.041. MUNICIPAL-COUNTY JAIL FACILITIES IN COUNTY WITH POPULATION OF LESS THAN 20,000. (a) A county with a population of less than 20,000 and any municipality located within the county may finance, construct, maintain, and operate jail facilities for the joint use of the county and municipality. The governing body of the municipality and the commissioners court of the county by contract may determine each party's obligations relating to those actions and may provide for the custody, control, and operation of the jail facilities. The term of the contract may not exceed 20 years.

(b) The municipality and county may issue and sell bonds in the manner provided by law and may spend the proceeds of those bonds for the purposes authorized by this section. The bonds remain the sole obligations of the authority that issues them. Any funds derived from the sale of the bonds shall remain in the possession and control of the issuing authority until spent by that authority for the authorized purposes. (V.A.C.S. Art. 5115a, Secs. 1 (part), 2.)

Sec. 361.042. MUNICIPAL-COUNTY JAIL FACILITIES IN COUNTY WITH POPULATION OF 84,000 TO 86,000. (a) Instead of providing and maintaining its own jail, the commissioners court of a county with a population of 84,000 to 86,000 may provide safe and suitable jail facilities for the county by contracting for the facilities with the governing body of the municipality that is the county seat of the county.

(b) The contract must provide for:

(1) the incarceration, on a daily per capita basis, of the county's prisoners in the jail facilities owned by the municipality, with the daily per capita rate to be equal to the cost of maintaining a prisoner in the facilities or to be at an amount mutually agreed on by the parties;

(2) the lease to the county of a part of the municipally owned jail facilities, with payment under the lease to be at a rate based on the proportion of the total area of the facilities that is occupied by the county's prisoners; or

(3) the joint operation and maintenance of the municipally owned jail facilities for the mutual use and benefit of the county and the municipality, with each party's obligations regarding the maintenance and operation of the facilities to be prescribed by the contract.

(c) The contract may provide for the custody, control, and operation of the jail facilities. The jail facilities must meet the requirements established by Subchapter A, Chapter 351.

(d) A contract made under Subsection (b)(2) or (3) may not exceed a term of 20 years. (V.A.C.S. Art. 5115b, Sec. 1 (part).)

Sec. 361.043. JAILER FOR MUNICIPAL-COUNTY JAIL FACILITIES. (a) A contract made under Section 361.041 or 361.042 may provide for a jailer to be custodian of the jail facilities.

(b) The jailer is under the control and supervision of the sheriff of the county and shall be appointed by the sheriff with the advice and consent of the commissioners court of the county and the governing body of the municipality. The salary of the jailer shall be set in an amount equal to that of a deputy sheriff of the county and may be paid by the county and the municipality in proportionate amounts as provided by the contract.

(c) Except as otherwise provided by this section, the rights, duties, salary, and tenure of the jailer are controlled by the laws governing deputy sheriffs. (V.A.C.S. Art. 5115a, Sec. 1 (part); Art. 5115b, Sec. 1 (part).)

CHAPTER 362. LAW ENFORCEMENT SERVICES PROVIDED THROUGH
COOPERATION OF MUNICIPALITIES, COUNTIES, AND CERTAIN
OTHER LOCAL GOVERNMENTS

Sec. 362.001. DEFINITIONS

Sec. 362.002. LAW ENFORCEMENT ASSISTANCE

Sec. 362.003. PROVISIONS RELATING TO LAW ENFORCEMENT OFFICERS

CHAPTER 362. LAW ENFORCEMENT SERVICES PROVIDED THROUGH
COOPERATION OF MUNICIPALITIES, COUNTIES, AND CERTAIN
OTHER LOCAL GOVERNMENTS

Sec. 362.001. DEFINITIONS. In this chapter:

(1) "Joint airport" means an airport that is operated jointly by two municipalities and that is situated in two counties.

(2) "Law enforcement officer" means a municipal police officer, sheriff, deputy sheriff, constable, deputy constable, marshal, deputy marshal, or a police officer of a joint airport who has been commissioned as a peace officer under the laws of this state. (V.A.C.S. Art. 999b, Sec. 1, Subdivs. (2), (3).)

Sec. 362.002. LAW ENFORCEMENT ASSISTANCE. (a) A county, municipality, or joint airport may, by resolution or order of its governing body, provide for, or authorize its chief administrative officer, chief of police, or marshal to provide for, its regularly employed law enforcement officers to assist another county, municipality, or joint airport. This assistance may be provided only when the mayor or other officer authorized to declare a state of civil emergency in the other county, municipality, or joint airport considers additional law enforcement officers necessary to protect health, life, and property in the county, municipality, or joint airport because of disaster, riot, threat of concealed explosives, or unlawful assembly characterized by force and violence or the threat of force and violence by three or more persons acting together or without lawful authority.

(b) A county, municipality, or joint airport may, by resolution or order of its governing body, enter into an agreement with a neighboring municipality, joint airport, or contiguous county to form a mutual aid law enforcement task force to cooperate in criminal investigations and law enforcement. Peace officers employed by counties, municipalities, or joint airports covered by the agreement have only the additional investigative authority

throughout the region as set forth in the agreement. The agreement must provide for the compensation of peace officers involved in the activities of the task force.

(c) A law enforcement officer employed by a county, municipality, or joint airport that is covered by the agreement may make an arrest outside the county, municipality, or joint airport in which the officer is employed but within the area covered by the agreement. The law enforcement agencies of the area where the arrest is made shall be notified of the arrest without delay, and the notified agency shall make available the notice of the arrest in the same manner as if the arrest were made by a member of that agency. (V.A.C.S. Art. 999b, Secs. 2, 2a.)

Sec. 362.003. PROVISIONS RELATING TO LAW ENFORCEMENT OFFICERS. (a) While a law enforcement officer regularly employed by one county, municipality, or joint airport is in the service of another county, municipality, or joint airport according to this chapter, the officer is a peace officer of the latter county, municipality, or joint airport and is under the command of the law enforcement officer who is in charge in that county, municipality, or joint airport. The officer has all the powers of a regular law enforcement officer of that county, municipality, or joint airport as fully as if the officer were in the county, municipality, or joint airport where regularly employed. Qualification for office in the territory of regular employment constitutes qualification for office in the other county, municipality, or joint airport and no additional oath, bond, or compensation is needed.

(b) The law enforcement officer who is ordered by the official designated by the governing body of the county, municipality, or joint airport to perform police or peace duties outside the limits of that county, municipality, or joint airport where regularly employed is entitled to the same wage, salary, pension, and other compensation and rights, including injury or death benefits, as if the service were rendered in the county, municipality, or joint airport of the officer's regular employment. The officer is also entitled to payment for any reasonable expenses incurred for travel, food, or lodging while on duty outside the limits of the territory of the officer's regular employment.

(c) The county, municipality, or joint airport regularly employing the law enforcement officer shall pay all wages and disability payments, pension payments, damages to equipment and clothing, medical expenses, and travel, food, and lodging expenses. The county, municipality, or joint airport whose authorized official requested the services shall reimburse the original county, municipality, or joint airport after the payment is made and reimbursement is requested. Each county, municipality, or joint airport may make these payments and reimbursements regardless of any provision in its charter or ordinances to the contrary. (V.A.C.S. Art. 999b, Secs. 3, 4, 5.)

[Chapters 363–370 reserved for expansion]

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 371. MUNICIPAL PLANNING AND GROWTH

SUBCHAPTER A. PROMOTIONAL ADVERTISING BY POPULOUS MUNICIPALITIES

- Sec. 371.001. AUTHORITY TO APPROPRIATE; CREATION OF BOARD
- Sec. 371.002. COMPOSITION OF BOARD
- Sec. 371.003. DUTIES OF BOARD
- Sec. 371.004. MANAGEMENT OF BOARD
- Sec. 371.005. CUMULATIVE EFFECT

[Sections 371.006–371.020 reserved for expansion]

SUBCHAPTER B. APPROPRIATIONS FOR PROMOTIONAL ADVERTISING BY GENERAL-LAW MUNICIPALITIES

- Sec. 371.021. APPROPRIATION OF FUNDS FOR ADVERTISING

[Sections 371.022–371.040 reserved for expansion]

SUBCHAPTER C. JOINT MUNICIPAL PLANNING

- Sec. 371.041. PLANNING; FUNDING
- Sec. 371.042. CREATION OF JOINT PLANNING COMMISSION
- Sec. 371.043. MASTER PLAN; OTHER DUTIES
- Sec. 371.044. OPEN MEETINGS AND RECORDS
- Sec. 371.045. CUMULATIVE EFFECT

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 371. MUNICIPAL PLANNING AND GROWTH

SUBCHAPTER A. PROMOTIONAL ADVERTISING BY
POPULOUS MUNICIPALITIES

Sec. 371.001. AUTHORITY TO APPROPRIATE; CREATION OF BOARD. (a) The governing body of a municipality with a population of 500,000 or less may appropriate from its general fund an amount not to exceed one percent of the general fund budget for that year for the purpose of advertising the municipality and promoting its growth and development.

(b) Before the governing body may spend money appropriated under this section, the governing body shall create a citizens' advisory board in accordance with this subchapter. The governing body may give the board the name Municipal Board of Development or another name. (V.A.C.S. Art. 1015j-1, Secs. 1, 2 (part).)

Sec. 371.002. COMPOSITION OF BOARD. (a) The governing body of the municipality shall appoint five members to the board.

(b) A board member serves two-year terms and may not receive compensation for service on the board. A board member serves only in an advisory capacity and is not a public officer or agent of the municipality.

(c) A member's service on the board does not invalidate a contract with the municipality in which the member has an interest. (V.A.C.S. Art. 1015j-1, Sec. 2 (part).)

Sec. 371.003. DUTIES OF BOARD. (a) The board shall:

- (1) investigate various methods of advertising and promoting the municipality; and
- (2) recommend to the governing body of the municipality:

(A) the best method of spending available funds for advertisement and promotion; and

(B) the amount to be appropriated in the next budget of the municipality for advertisement and promotion.

(b) A recommendation of the board is not binding on the governing body of the municipality. The governing body shall determine the methods of advertising and promotion to be used and, subject to this subchapter, the amount to be appropriated. (V.A.C.S. Art. 1015j-1, Sec. 3.)

Sec. 371.004. MANAGEMENT OF BOARD. To carry out this subchapter, the governing body of the municipality may appoint a person to manage the promotion, development, tourism, and convention activities of the municipality or may designate an official of the municipality to perform that function. The person appointed or designated shall serve ex officio as secretary of the board created for the municipality. (V.A.C.S. Art. 1015j-1, Sec. 3a.)

Sec. 371.005. CUMULATIVE EFFECT. This subchapter is cumulative of powers that a municipality obtains under its charter and does not impair such a power. (V.A.C.S. Art. 1015j-1, Sec. 4.)

[Sections 371.006–371.020 reserved for expansion]

SUBCHAPTER B. APPROPRIATIONS FOR PROMOTIONAL ADVERTISING
BY GENERAL-LAW MUNICIPALITIES

Sec. 371.021. APPROPRIATION OF FUNDS FOR ADVERTISING. (a) The governing body of a general-law municipality may appropriate from its general fund an amount not to exceed five cents per \$100 assessed valuation for the purpose of advertising the municipality and promoting its growth and development.

(b) Before the governing body may appropriate money under this section, a majority of voters voting in an election on the issue must approve the authority of the governing body to make appropriations under this section not to exceed the limit imposed by Subsection (a). (V.A.C.S. Art. 1015j.)

[Sections 371.022–371.040 reserved for expansion]

SUBCHAPTER C. JOINT MUNICIPAL PLANNING

Sec. 371.041. PLANNING; FUNDING. A municipality may compile statistics, conduct studies, and formulate plans related to future growth and development of the municipality. The municipality must pass an ordinance authorizing the expenditure of funds for those purposes before making the expenditures. (V.A.C.S. Art. 1011l, Sec. 1.)

Sec. 371.042. CREATION OF JOINT PLANNING COMMISSION. (a) If the area in which a municipality may exercise zoning authority is adjacent to any area in which one or more other municipalities may exercise zoning authority, the municipality may participate in a joint planning commission with one or more of the other municipalities. To participate in a joint planning commission, a municipality must adopt the provisions of this subchapter.

(b) The governing bodies of each municipality participating in a joint planning commission shall appoint an equal number of representatives to the planning commission.

(c) The planning commission shall meet and determine the area under its jurisdiction, describe the area by metes and bounds in writing and on a map, and file a copy of the description with the county clerk of the county in which the municipalities are located.

(d) A municipality participating in the planning commission may contribute to or spend public funds for the commission to achieve the purposes of the commission. (V.A.C.S. Art. 1011l, Secs. 2, 3.)

Sec. 371.043. MASTER PLAN; OTHER DUTIES. (a) A joint planning commission shall prepare an organized master plan for the orderly growth of the area under the jurisdiction of the commission. In addition to other provisions, the plan must include:

- (1) highway design;
- (2) street and park layout; and
- (3) designation of areas for the location of schools, residences, business and commerce, industry, and water reservoirs.

(b) For a master plan to be effective, each municipality in the area must approve the plan.

(c) To prepare the master plan, a joint planning commission may:

- (1) employ engineers, clerks, secretaries, and other administrative and field personnel; and
- (2) make aerial photographs, land surveys, and topography studies.

(d) A joint planning commission shall:

- (1) keep a complete record of all of its expenditures, meetings, activities, and plans;
- (2) submit to each municipality participating in the commission regular reports stating the commission's income, expenditures, accounts, and progress; and

(3) prepare and submit to each municipality participating in the commission an annual audit of expenditures, accounts, and funds under the supervision of the commission.

(e) A joint planning commission shall make any report, account, or record requested by ordinance or resolution by a municipality participating in the commission. Additionally, the commission shall perform any other duty requested by ordinance or resolution by a municipality if the duty is not inconsistent with the purposes of this subchapter and the request is approved by a majority of the governing bodies of the municipalities participating in the commission.

(f) Any duty imposed on or power granted to a joint planning commission under this section must be approved by ordinance by each municipality participating in the commission. (V.A.C.S. Art. 10111, Sec. 4 (part).)

Sec. 371.044. OPEN MEETINGS AND RECORDS. Meetings of a joint planning commission are open to the public. Records, minutes, books, and accounts of the commission are subject to public inspection. (V.A.C.S. Art. 10111, Sec. 4 (part).)

Sec. 371.045. CUMULATIVE EFFECT. Authority under this subchapter is cumulative of other authority that a municipality has to expend public funds from the municipal treasury for the purposes of municipal planning and does not limit that other authority. (V.A.C.S. Art. 10111, Sec. 5.)

CHAPTER 372. IMPROVEMENT DISTRICTS IN MUNICIPALITIES

SUBCHAPTER A. PUBLIC IMPROVEMENT DISTRICTS

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CHAPTER 372. IMPROVEMENT DISTRICTS IN MUNICIPALITIES

SUBCHAPTER A. PUBLIC IMPROVEMENT DISTRICTS

Sec. 372.001. SHORT TITLE. This subchapter may be cited as the Public Improvement District Assessment Act. (V.A.C.S. Art. 1269j-4.12, Sec. 1(a) (part).)

Sec. 372.002. EXERCISE OF POWERS. Powers granted under this subchapter may be exercised by a municipality in which the governing body of the municipality initiates or receives a petition requesting the establishment of a public improvement district. A petition must comply with the requirements of Section 372.005. (V.A.C.S. Art. 1269j-4.12, Sec. 1(a) (part).)

Sec. 372.003. AUTHORIZED IMPROVEMENTS. (a) The governing body of a municipality may undertake an improvement project that confers a special benefit on a definable part of the municipality.

(b) A public improvement project may include:

- (1) landscaping;
- (2) erection of fountains, distinctive lighting, and signs;
- (3) improving, widening, narrowing, closing, or rerouting of streets or sidewalks;
- (4) construction or improvement of pedestrian malls;
- (5) acquisition and installation of pieces of art;
- (6) acquisition, construction, or improvement of off-street parking facilities;
- (7) drainage improvements;
- (8) the establishment or improvement of parks;
- (9) projects similar to those listed in Subdivisions (1)-(8);
- (10) acquisition of real property in connection with an authorized improvement;
- (11) special supplemental services for improvement and promotion of the district, including advertising, promotion, health and sanitation, public safety, security, business recruitment, development, recreation, and cultural enhancement; and
- (12) payment of expenses incurred in the establishment, administration, and operation of the district.

(c) A public improvement project may be limited to the provision of the services described by Subsection (b)(11). (V.A.C.S. Art. 1269j-4.12, Sec. 2(a) (part), (b).)

Sec. 372.004. COMBINED IMPROVEMENTS. An improvement project may consist of an improvement on more than one street or of more than one type of improvement in, on, or adjacent to the same street or streets. A project described by this section may be included in one proceeding and financed as one improvement project. (V.A.C.S. Art. 1269j-4.12, Sec. 4.)

Sec. 372.005. PETITION. (a) A petition for the establishment of a public improvement district must state:

- (1) the general nature of the proposed improvement;
- (2) the estimated cost of the improvement;
- (3) the boundaries of the proposed assessment district;
- (4) the proposed method of assessment;

(5) the proposed apportionment of cost between the public improvement district and the municipality as a whole;

(6) whether the management of the district is to be by the municipality, the private sector, or a partnership between the municipality and the private sector;

(7) that the persons signing the petition request or concur with the establishment of the district; and

(8) that an advisory body may be established to develop and recommend an improvement plan to the governing body of the municipality.

(b) The petition is sufficient if signed by:

(1) owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) record owners of real property liable for assessment under the proposal who:

(A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or

(B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

(c) The petition may be filed with the municipal secretary or other officer performing the functions of the municipal secretary. (V.A.C.S. Art. 1269j-4.12, Secs. 1(a) (part); 5(a) (part), (b).)

Sec. 372.006. FINDINGS. If a petition that complies with this subchapter is filed, the governing body of the municipality may make findings by resolution as to the advisability of the proposed improvement, its estimated cost, the method of assessment, and the apportionment of cost between the proposed improvement district and the municipality as a whole. (V.A.C.S. Art. 1269j-4.12, Sec. 5(c).)

Sec. 372.007. FEASIBILITY REPORT. (a) Before holding the hearing required by Section 372.009, the governing body of the municipality may use the services of municipal employees or may employ consultants to prepare a report to determine whether an improvement should be made as proposed by petition or otherwise or whether the improvement should be made in combination with other improvements authorized under this subchapter. The governing body may also require that a preliminary estimate of the cost of the improvement or combination of improvements be made.

(b) For the purpose of determining the feasibility and desirability of an improvement district, the governing body may take other preliminary steps before the hearing required by Section 372.009, before establishing a public improvement district, or before entering into a contract. (V.A.C.S. Art. 1269j-4.12, Sec. 6.)

Sec. 372.008. ADVISORY BODY. (a) After receiving a petition that complies with Section 372.005, the governing body of the municipality may appoint an advisory body with the responsibility of developing and recommending an improvement plan to the governing body.

(b) The composition of the advisory body must include:

(1) owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) record owners of real property liable for assessment under the proposal who:

(A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or

(B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal. (V.A.C.S. Art. 1269j-4.12, Sec. 5(a) (part).)

Sec. 372.009. HEARING. (a) A public improvement district may be established and improvements provided by the district may be financed under this subchapter only after

the governing body of the municipality holds a public hearing on the advisability of the improvement.

(b) The hearing may be adjourned from time to time until the governing body makes findings by resolution as to:

- (1) the advisability of the improvement;
- (2) the nature of the improvement;
- (3) the estimated cost of the improvement;
- (4) the boundaries of the public improvement district;
- (5) the method of assessment; and
- (6) the apportionment of costs between the district and the municipality as a whole.

(c) Notice of the hearing must be given in a newspaper of general circulation in the municipality. The final publication of notice must be made before the 15th day before the date of the hearing. The notice must state:

- (1) the time and place of the hearing;
- (2) the general nature of the proposed improvement;
- (3) the estimated cost of the improvement;
- (4) the boundaries of the proposed assessment district;
- (5) the proposed method of assessment; and
- (6) the proposed apportionment of cost between the improvement district and the municipality as a whole.

(d) Written notice containing the information required by Subsection (c) must be mailed before the 15th day before the date of the hearing. The notice must be addressed to "Property Owner" and mailed to the current address of the owner, as reflected on tax rolls, of property subject to assessment under the proposed public improvement district. (V.A.C.S. Art. 1269j-4.12, Secs. 7(a), (b), (c), (d).)

Sec. 372.010. IMPROVEMENT ORDER. (a) During the six-month period after the date of the final adjournment of the hearing under Section 372.009, the governing body of the municipality may authorize an improvement district if, by majority vote of all members of the governing body, the members adopt a resolution authorizing the district in accordance with its finding as to the advisability of the improvement.

(b) An authorization takes effect when it has been published one time in a newspaper of general circulation in the municipality.

(c) Actual construction of an improvement may not begin until after the 20th day after the date the authorization takes effect and may not begin if during that 20-day period written protests signed by at least two-thirds of the owners of record of property within the improvement district or by the owners of record of property comprising at least two-thirds of the total area of the district are filed with the municipal secretary or other officer performing the duties of the municipal secretary. A person whose name appears on a protest may withdraw the name from the protest at any time before the governing body of the municipality convenes to determine the sufficiency of the protest. (V.A.C.S. Art. 1269j-4.12, Secs. 8(a), (b), (d).)

Sec. 372.011. DISSOLUTION. A public hearing may be called and held in the same manner as a hearing under Section 372.009 for the purpose of dissolving a district if a petition requesting dissolution is filed and the petition contains the signatures of at least enough property owners in the district to make a petition sufficient under Section 372.005(b). If the district is dissolved, the district nonetheless shall remain in effect for the purpose of meeting obligations of indebtedness for improvements. (V.A.C.S. Art. 1269j-4.12, Sec. 8(c).)

Sec. 372.012. AREA OF DISTRICT. The area of a public improvement district to be assessed according to the findings of the governing body of the municipality may be less than the area described in the proposed boundaries stated by the notice under Section 372.009. The area to be assessed may not include property not described by the notice as being within the proposed boundaries of the district unless a hearing is held to include the

property and notice for the hearing is given in the same manner as notice under Section 372.009. (V.A.C.S. Art. 1269j-4.12, Sec. 7(e).)

Sec. 372.013. SERVICE PLAN. (a) The advisory body shall prepare an ongoing service plan and present the plan to the governing body of the municipality for review and approval. The governing body may assign responsibility for the plan to another entity in the absence of an advisory body.

(b) The plan must cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements. The plan shall be reviewed and updated annually for the purpose of determining the annual budget for improvements. (V.A.C.S. Art. 1269j-4.12, Secs. 9(a) (part), 10(c) (part).)

Sec. 372.014. ASSESSMENT PLAN; PAYMENT BY EXEMPT JURISDICTIONS. (a) An assessment plan must provide that at least 20 percent of the cost of an improvement be paid by special assessments against property in the improvement district. The assessment plan must be included in the annual service plan.

(b) The municipality is responsible for payment of assessments against exempt municipal property in the district. Payment of assessments by other exempt jurisdictions must be established by contract. An assessment paid by the municipality under this subsection is considered to have been paid by special assessment for the purposes of Subsection (a). (V.A.C.S. Art. 1269j-4.12, Secs. 10(a), (b), (c) (part).)

Sec. 372.015. DETERMINATION OF ASSESSMENT. (a) The governing body of the municipality shall apportion the cost of an improvement to be assessed against property in an improvement district. The apportionment shall be made on the basis of special benefits accruing to the property because of the improvement.

(b) Cost of an improvement may be assessed:

- (1) equally per front foot or square foot;
- (2) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or
- (3) in any other manner that results in imposing equal shares of the cost on property similarly benefitted.

(c) The governing body may establish by ordinance:

- (1) reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed; and
- (2) the methods of assessing the special benefits for various classes of improvements.

(d) The amount of assessment for each property owner may be adjusted following the annual review of the service plan. (V.A.C.S. Art. 1269j-4.12, Secs. 2(a) (part), 9(a) (part), (b), (c), (d).)

Sec. 372.016. ASSESSMENT ROLL. (a) After the total cost of an improvement is determined, the governing body of the municipality shall prepare a proposed assessment roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality under this subchapter.

(b) The governing body shall file the proposed assessment roll with the municipal secretary or other officer performing the functions of the municipal secretary. The proposed assessment roll is subject to public inspection. The governing body shall require the municipal secretary or other officer to publish notice of the governing body's intention to consider the proposed assessments at a public hearing. The notice must be published in a newspaper of general circulation in the municipality before the 10th day before the date of the hearing. The notice must state:

- (1) the date, time, and place of the hearing;
- (2) the general nature of the improvement;
- (3) the cost of the improvement;
- (4) the boundaries of the assessment district; and

(5) that written or oral objections will be considered at the hearing.

(c) When the assessment roll is filed under Subsection (b), the municipal secretary or other officer shall mail to the owners of property liable for assessment a notice of the hearing. The notice must contain the information required by Subsection (b) and the secretary or other officer shall mail the notice to the last known address of the property owner. The failure of a property owner to receive notice does not invalidate the proceeding. (V.A.C.S. Art. 1269j-4.12, Sec. 11.)

Sec. 372.017. LEVY OF ASSESSMENT. (a) At or on the adjournment of the hearing referred to by Section 372.016 on proposed assessments, the governing body of the municipality must hear and pass on any objection to a proposed assessment. The governing body may amend a proposed assessment on any parcel.

(b) After all objections have been heard and the governing body has passed on the objections, the governing body by ordinance shall levy the assessment as a special assessment on the property. The governing body by ordinance shall specify the method of payment of the assessment. The governing body may provide that assessments be paid in periodic installments. The installments must be in amounts necessary to meet annual costs for improvements and must continue for a period necessary to retire the indebtedness on the improvements. (V.A.C.S. Art. 1269j-4.12, Sec. 12(a).)

Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) An assessment bears interest at the rate specified by the governing body of the municipality, but may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the public debt used to finance the improvement. Interest on the assessment between the effective date of the ordinance levying the assessment and the date the first installment is payable shall be added to the first installment. The interest for one year on all unpaid installments shall be added to each subsequent installment until the interest is paid.

(b) An assessment or reassessment is a lien against the property assessed until paid. The owner of assessed property may pay at any time the entire assessment, with interest that has accrued on the assessment, on any lot or parcel. (V.A.C.S. Art. 1269j-4.12, Sec. 12(b).)

Sec. 372.019. SUPPLEMENTAL ASSESSMENTS. After notice and a hearing, the governing body of the municipality may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement. Notice must be given and the hearing held under this section in the same manner as required by Sections 372.016 and 372.017. (V.A.C.S. Art. 1269j-4.12, Sec. 13.)

Sec. 372.020. REASSESSMENT. The governing body of the municipality may make a reassessment or new assessment of a parcel of land if:

- (1) a court of competent jurisdiction sets aside an assessment against the parcel;
- (2) the governing body determines that the original assessment is excessive; or
- (3) on the written advice of counsel, the governing body determines that the original assessment is invalid. (V.A.C.S. Art. 1269j-4.12, Sec. 14.)

Sec. 372.021. SPECIAL IMPROVEMENT DISTRICT FUND. (a) A municipality that intends to create a public improvement district may by ordinance establish a special improvement district fund in the municipal treasury.

(b) The municipality annually may levy a tax to support the fund.

(c) The fund may be used to:

- (1) pay the costs of planning, administration, and an improvement authorized by this subchapter;
- (2) prepare preliminary plans, studies, and engineering reports to determine the feasibility of an improvement; and
- (3) if ordered by the governing body of the municipality, pay the initial cost of the improvement until temporary notes, time warrants, or improvement bonds have been issued and sold.

(d) The fund is not required to be budgeted for expenditure during any year, but the amount of the fund must be stated in the municipality's annual budget. The amount of

the fund must be based on an annual service plan that describes the public improvements for the fiscal year.

(e) A grant-in-aid or contribution made to the municipality for the planning and preparation of plans for an improvement authorized under this subchapter may be credited to the special improvement district fund. (V.A.C.S. Art. 1269j-4.12, Sec. 16.)

Sec. 372.022. SEPARATE FUNDS. A separate public improvement district fund shall be created in the municipal treasury for each district. Proceeds from the sale of bonds, temporary notes, and time warrants, and other sums appropriated to the fund by the governing body of the municipality shall be credited to the fund. The fund may be used solely to pay costs incurred in making an improvement. When an improvement is completed, the balance of the part of the assessment that is for improvements shall be transferred to the fund established for the retirement of bonds. (V.A.C.S. Art. 1269j-4.12, Sec. 15.)

Sec. 372.023. PAYMENT OF COSTS. (a) The cost of an improvement made under this subchapter must be paid in accordance with this section.

(b) A cost payable by the municipality as a whole may be paid from general funds available for the purpose or other available general funds.

(c) A cost payable from a special assessment that has been paid in full shall be paid from that assessment.

(d) A cost payable from a special assessment that is to be paid in installments and a cost payable by the municipality as a whole but not payable from available general funds or other available general improvement funds shall be paid by the issuance and sale of revenue or general obligation bonds.

(e) While an improvement is in progress, the governing body of the municipality may issue temporary notes or time warrants to pay for the costs of the improvement and, on completion of the improvement, issue revenue or general obligation bonds.

(f) The cost of more than one improvement may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue. (V.A.C.S. Art. 1269j-4.12, Sec. 17.)

Sec. 372.024. GENERAL OBLIGATION AND REVENUE BONDS. General obligation bonds issued to pay costs under Section 372.023(d) must be issued under the provisions of Chapter 1, Title 22, Revised Statutes. Revenue bonds issued to pay costs under that subsection may be issued from time to time in one or more series and are to be payable from and secured by liens on all or part of the revenue derived from improvements authorized under this subchapter, including revenue derived from installment payments of special assessments. (V.A.C.S. Art. 1269j-4.12, Secs. 18, 19.)

Sec. 372.025. TERMS AND CONDITIONS OF BONDS. (a) Revenue bonds may be issued to mature serially or in any other manner but must mature not later than 40 years after their date. A provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms and conditions specified in the ordinance authorizing the issuance of the bonds.

(b) The bonds shall be executed and the bonds and interest coupons appertaining to them are negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code (Section 1.101 et seq., Business & Commerce Code). The ordinance authorizing the issuance of the bonds must specify:

- (1) whether the bonds are issued registrable as to principal alone or as to both principal and interest;
- (2) whether the bonds are redeemable before maturity;
- (3) the form, denomination, and manner of issuance;
- (4) the terms, conditions, and other details applying to the bonds including the price, terms, and interest rates on the bonds; and
- (5) the manner of sale of the bonds.

(c) The ordinance authorizing the issuance of the bonds may specify that the proceeds from the sale of the bonds:

(1) be used to pay interest on the bonds during and after the period of acquisition or construction of an improvement financed through the sale of the bonds;

(2) be used for creating a reserve fund for payment of the principal of and interest on the bonds and for creating other funds; and

(3) may be placed in time deposit or invested, until needed. (V.A.C.S. Art. 1269j-4.12, Sec. 20.)

Sec. 372.026. PLEDGES. (a) For the payment of bonds issued under this subchapter and the payment of principal, interest, and any other amounts required or permitted in connection with the bonds, the governing body of the municipality may pledge all or part of the income from improvements financed under this subchapter, including income received in installment payments under Section 372.023.

(b) Pledged income must be fixed and collected in amounts sufficient, with other pledged resources, to pay principal, interest, and other expenses related to the bonds, and to the extent required by the ordinance authorizing the bonds, to pay for the operation, maintenance, and other expenses related to improvements authorized by this subchapter.

(c) The bonds may also be secured by mortgages or deeds of trust on any real property related to the facilities authorized under this subchapter that are owned or are to be acquired by the municipality and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances as evidence of the indebtedness.

(d) The governing body may pledge to the payment of bonds all or part of a grant, donation, revenue, or income received or to be received from the government of the United States or any other public or private source, whether or not it is received pursuant to an agreement or otherwise. (V.A.C.S. Art. 1269j-4.12, Sec. 21.)

Sec. 372.027. REFUNDING BONDS. (a) Revenue bonds issued under this subchapter may be refunded or refinanced by the issuance of refunding bonds, under terms or conditions set forth in ordinances of the municipality issuing the bonds. The provisions of this subchapter applying generally to revenue bonds, including provisions related to the issuance of those bonds, apply to refunding bonds authorized by this section. The refunding bonds may be sold and delivered in amounts necessary for the principal, interest, and any redemption premium of the bonds to be refunded, on the date of the maturity of the bonds or any redemption date of the bond.

(b) Refunding bonds may be issued for exchange with the bonds they are refunding. The comptroller of public accounts shall register refunding bonds described by this subsection and deliver the bonds to holders of bonds being refunded in accordance with the ordinance authorizing the issuance of refunding bonds. The exchange may be made in one delivery or several installment deliveries.

(c) General obligation bonds issued under this subchapter may be refunded in the manner provided by law. (V.A.C.S. Art. 1269j-4.12, Sec. 22.)

Sec. 372.028. APPROVAL AND REGISTRATION. (a) Revenue bonds issued under this subchapter and a record of the proceedings authorizing their issuance must be submitted to the attorney general for examination. If bonds state that they are secured by a pledge of revenue or rentals from a contract or lease, a copy of the contract or lease and a description of the proceedings authorizing the contract or lease must also be submitted to the attorney general.

(b) If the attorney general determines that the bonds were authorized and the contracts or leases related to the bonds were made in accordance with the law, the attorney general shall approve the bonds and the contract or lease. On the approval of the attorney general, the comptroller of public accounts shall register the bonds.

(c) Bonds and contracts or leases approved and registered under this section are valid and binding obligations for all purposes in accordance with their terms and are incontestable in any court or other forum.

(d) General obligation bonds issued under this subchapter shall be approved and registered as provided by law. (V.A.C.S. Art. 1269j-4.12, Sec. 23.)

Sec. 372.029. AUTHORIZED INVESTMENTS; SECURITY. (a) Bonds issued under this subchapter are legal and authorized investments for:

- (1) banks, trust companies, and savings and loan associations;
- (2) all insurance companies;
- (3) fiduciaries, trustees, and guardians; and

(4) interest funds, sinking funds, and other public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic.

(b) Bonds issued under this subchapter may be security for deposits of public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic, to the extent of the market value of the bonds, if accompanied by any appurtenant unmatured interest coupons. (V.A.C.S. Art. 1269j-4.12, Sec. 24.)

Sec. 372.030. SUBCHAPTER NOT EXCLUSIVE. This subchapter is an alternative to other methods by which a municipality may finance public improvements by assessing property owners. (V.A.C.S. Art. 1269j-4.12, Sec. 3.)

[Sections 372.031-372.040 reserved for expansion]

SUBCHAPTER B. IMPROVEMENT DISTRICTS IN HOME-RULE MUNICIPALITIES

Sec. 372.041. AUTHORITY OF HOME-RULE MUNICIPALITY. (a) A home-rule municipality may create improvement districts for the purposes of:

- (1) levying, straightening, widening, enclosing, or otherwise improving a river, creek, bayou, stream, other body of water, street, or alley;
- (2) draining, grading, filling, and otherwise protecting and improving the territory within the municipality's limits; and
- (3) issuing bonds to finance improvements listed in this subsection.

(b) If a home-rule municipality creates an improvement district in order to make improvements authorized by this subsection, the municipality must comply with the general law of the state relating to the creation of improvement districts. Bonds issued for improvements under this section must be issued in a manner that complies with the general authority of a home-rule municipality to issue bonds.

(c) A home-rule municipality may require the owners of property in the territory specially benefitted in enhanced value by improvements made under this section to pay the costs of the improvement. If a municipality finances an improvement under this subsection, the municipality shall make a personal charge against those property owners and fix a lien against that property by special assessment. The municipality may issue assignable or negotiable certificates to pay for the costs of improvements and require the property owners to make deferred payments to retire the certificates. Interest on deferred payments may not exceed eight percent. The municipality may appoint special commissioners or provide otherwise for the making and levying of special assessments under this subsection, or may provide that the making and levying of the assessment be performed by the governing body of the municipality, in compliance with requirements for hearings and other procedures as may be adopted under or required by the municipal charter. (V.A.C.S. Arts. 1179, 1180.)

CHAPTER 373. COMMUNITY DEVELOPMENT IN MUNICIPALITIES

Sec. 373.001. SHORT TITLE

Sec. 373.002. LEGISLATIVE FINDING; PUBLIC PURPOSES

Sec. 373.003. DEFINITION

Sec. 373.004. GOALS OF PROGRAM

Sec. 373.005. ELEMENTS OF PROGRAM

Sec. 373.006. REQUIRED PROCEDURES BEFORE ADOPTION OF COMMUNITY DEVELOPMENT PROGRAM

Sec. 373.007. LIMITATION ON MUNICIPAL POWERS; EFFECT ON URBAN RE-NEWAL

CHAPTER 373. COMMUNITY DEVELOPMENT IN MUNICIPALITIES

Sec. 373.001. SHORT TITLE. This chapter may be cited as the Texas Community Development Act of 1975. (V.A.C.S. Art. 12691-4, Sec. 1.)

Sec. 373.002. LEGISLATIVE FINDING; PUBLIC PURPOSES. (a) The legislature finds that the activities specified in this chapter contribute to the development of viable urban communities by providing decent housing and a suitable living environment and by expanding economic opportunities for persons of low and moderate income.

(b) Activities conducted under this chapter are directed toward the following purposes:

- (1) elimination of slums and areas affected by blight;
- (2) prevention of blighting influences and of the deterioration of property and neighborhood and community facilities important to the welfare of the community;
- (3) elimination of conditions detrimental to the public health, safety, and welfare;
- (4) expansion and improvement of the quantity and quality of community services essential for the development of viable urban communities;
- (5) more rational use of land and other natural resources;
- (6) improved arrangement of residential, commercial, industrial, recreational, and other necessary activity centers;
- (7) restoration and preservation of properties of special value for historic, architectural, or aesthetic reasons;
- (8) reduction of the isolation of income groups in communities and geographical areas, promotion of increased diversity and vitality of neighborhoods through spatial deconcentration of housing opportunities for persons of low and moderate income, and revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(9) alleviation of physical and economic distress through the stimulation of private investment and community revitalization in slum or blighted areas. (V.A.C.S. Art. 12691-4, Sec. 2.)

Sec. 373.003. DEFINITION. In this chapter, "community development program" means a program adopted under this chapter. (New.)

Sec. 373.004. GOALS OF PROGRAM. Through a community development program, a municipality may conduct work or activities designed to:

- (1) improve the living and economic conditions of persons of low and moderate income;
- (2) benefit low or moderate income neighborhoods;
- (3) aid in the prevention or elimination of slums and blighted areas;
- (4) aid a federally assisted new community; or
- (5) meet other urgent community development needs, including an activity or function specified for a community development program that incorporates a federally assisted new community. (V.A.C.S. Art. 12691-4, Sec. 3(a).)

Sec. 373.005. ELEMENTS OF PROGRAM. (a) To conduct work or activities under Section 373.004, a municipality may adopt a community development program by ordinance or resolution.

(b) A community development program may include:

- (1) acquisition of real property, including air rights, water rights, and other interests in real property, that:
 - (A) is blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
 - (B) is appropriate for rehabilitation or conservation activities;

(C) is appropriate for the preservation or restoration of historic sites, the beautification of urban land, or the conservation of open spaces, natural resources, and scenic areas;

(D) is appropriate for the provision of recreational opportunities or the guidance of urban development; or

(E) is to be used for the provision of public works, facilities, or other improvements eligible for assistance under this chapter or is to be used for other public purposes;

(2) acquisition, construction, reconstruction, or installation of public works, facilities, sites, or other improvements, including neighborhood facilities, senior centers, historic properties, utilities, streets, streetlights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, parks, playgrounds, other recreational facilities, flood and drainage facilities, parking facilities, solid waste disposal facilities, and fire protection services and facilities that are located in or that serve community development areas;

(3) municipal code enforcement in a deteriorated or deteriorating area in which enforcement, combined with public improvements and public services, may stop the decline of the area;

(4) clearance, demolition, removal, and rehabilitation of buildings and improvements, including assistance in and financing of public or private acquisition of those properties for rehabilitation;

(5) rehabilitation of privately owned properties if incidental to other activities under this chapter;

(6) special projects related to the removal of barriers that restrict the mobility of elderly and handicapped persons;

(7) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units used for the relocation of persons displaced by programs conducted under this chapter;

(8) disposition, by sale, lease, donation, or otherwise, of real property acquired under this chapter, or the retention of the property for public purposes;

(9) provision of public services not otherwise available in areas in which other activities authorized under this chapter are being carried out, if those services are determined to be necessary or appropriate to support the activities or if the services are designed to improve the community's public services and facilities, including services related to employment opportunities, economic development, crime prevention, child care, health, drug abuse, education, welfare, or recreational needs of persons residing in those areas, or are designed to coordinate public and private development programs;

(10) payment of the nonfederal share required in connection with a federal grant-in-aid program undertaken as part of a local community development program;

(11) payment of the cost of completing a project funded under Title I of the Housing Act of 1949 (42 U.S.C.A. Section 1450 et seq.) or a federally assisted new community assisted by loan guarantees under Title X of the National Housing Act (12 U.S.C.A. Section 1749aa et seq.) if a portion of the federally assisted area has received grants under Section 107(A)(1) of the Housing and Community Development Act of 1974 (42 U.S.C.A. Section 5307(a)(1));

(12) relocation payments and assistance for individuals, families, businesses, organizations, and farm operations displaced by activities assisted under this chapter;

(13) activities necessary to develop a comprehensive community development plan and to develop a policy-planning-management capacity in order that recipients of assistance under this chapter may more rationally and effectively determine their needs, set long-term goals and objectives, devise programs and activities to meet those goals and objectives, evaluate the progress of the programs, and carry out management, coordination, and monitoring of activities necessary for effective implementation of the programs;

(14) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of those activities;

(15) activities that are conducted by public or private entities if the activities are necessary or appropriate to meet the needs and objectives of the community development plan, including:

(A) acquisition of real property;

(B) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities, site improvements, utilities, commercial or industrial buildings or other structures, or other commercial or industrial real property improvements; and

(C) planning; and

(16) grants to neighborhood-based nonprofit organizations, local development corporations, or other entities organized to implement neighborhood revitalization or community economic development projects or federally assisted new communities.

(c) A municipality may implement programs to provide financing for the acquisition, construction, improvement, or rehabilitation of privately owned buildings and other improvements through the use of loans and grants from federal money remitted to the municipality at the interest rates and on the terms and conditions determined by the municipality. A municipality may not provide municipal property or municipal funds for private purposes. The programs and financing must be in keeping with an approved community development plan that the municipality has determined to be a public purpose. A program established for financing the acquisition, construction, improvement, or rehabilitation of buildings and improvements through the use of federal funds may prescribe procedures under which the owners of the buildings or improvements agree to partially or fully reimburse the municipality. (V.A.C.S. Art. 12691-4, Sec. 4.)

Sec. 373.006. REQUIRED PROCEDURES BEFORE ADOPTION OF COMMUNITY DEVELOPMENT PROGRAM. Before exercising powers under Section 373.005, the governing body of the municipality must:

(1) identify areas of the municipality in which predominantly low and moderate income persons reside, that are blighted or slum areas, or that are federally assisted new communities;

(2) establish community development program areas in which community development activities, building rehabilitation, or the acquisition of privately owned buildings or land is proposed;

(3) adopt, by resolution or ordinance, a plan under which citizens may publicly comment on the proposed community development program;

(4) conduct public hearings on the proposed program before the 15th day before the date of its final adoption by the governing body; and

(5) adopt the community development program by resolution or ordinance. (V.A.C.S. Art. 12691-4, Sec. 5.)

Sec. 373.007. LIMITATION ON MUNICIPAL POWERS; EFFECT ON URBAN RENEWAL. (a) This chapter does not grant a municipality the power of condemnation to rehabilitate or remove buildings or to acquire real property for the purpose of resale.

(b) This chapter does not authorize a municipality to implement an urban renewal project under Chapter 374 without compliance with the provisions of that chapter. This chapter does not affect the status, operations, contracts, or other obligations of any urban renewal agency created under Chapter 374. This chapter does not prevent a municipality from exercising urban renewal authority under Chapter 374. (V.A.C.S. Art. 12691-4, Secs. 6, 7.)

CHAPTER 374. URBAN RENEWAL IN MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 374.001. SHORT TITLE
- Sec. 374.002. LEGISLATIVE FINDINGS; INTENT
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- Sec. 374.037. MUNICIPAL ANNUAL REPORT; STATEMENT

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SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 374.901. USE OF ACQUIRED PROPERTY FOR PUBLIC HOUSING
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- Sec. 374.904. COSTS OF RELOCATION
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- Sec. 374.906. POWERS OF PUBLIC BODY

- Sec. 374.907. TITLE OF PURCHASER
 Sec. 374.908. CONFLICT OF INTEREST
 Sec. 374.909. JUDICIAL PROCEEDINGS
 Sec. 374.910. EFFECT ON MUNICIPAL POWERS

CHAPTER 374. URBAN RENEWAL IN MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 374.001. SHORT TITLE. This chapter may be cited as the Texas Urban Renewal Law. (V.A.C.S. Art. 12691-3, Sec. 1.)

Sec. 374.002. LEGISLATIVE FINDINGS; INTENT. (a) The legislature finds that slum and blighted areas exist in municipalities in this state and that those areas:

(1) are a serious and growing menace that is injurious and inimical to the public health, safety, morals, and welfare of the residents of this state;

(2) contribute substantially and increasingly to the spread of disease and crime, requiring excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, and for crime prevention, correctional facilities, prosecution and punishment, treatment of juvenile delinquency, and the maintenance of adequate police, fire, and accident protection and other public services and facilities; and

(3) constitute an economic and social liability, substantially impair the sound growth of affected municipalities, and retard the provision of housing accommodations.

(b) For these reasons, prevention and elimination of slum and blighted areas are matters of state policy and concern that may be best addressed by the combined action of private enterprise, municipal regulation, and other public action through approved urban renewal plans. The legislature further finds that the repair and rehabilitation of buildings and other improvements in affected areas, public acquisition of real property, demolition of buildings and other improvements as necessary to eliminate slum or blight conditions or to prevent the spread of those conditions, the disposition of property acquired in affected areas and incidental to the purposes stated by this subsection, and other public assistance to eliminate those conditions are public purposes for which public money may be spent and the power of eminent domain exercised.

(c) It is the intent of the legislature that private enterprise be encouraged to participate in accomplishing the objectives of urban renewal to the extent of its capacity and with governmental assistance as provided by this chapter. (V.A.C.S. Art. 12691-3, Sec. 2 (part).)

Sec. 374.003. DEFINITIONS. In this chapter:

(1) "Agency" means a public urban renewal agency created under this chapter.

(2) "Area of operation" means the area within the corporate boundaries of a municipality.

(3) "Blighted area" means an area that is not a slum area, but that, because of deteriorating buildings, structures, or other improvements; defective or inadequate streets, street layout, or accessibility; unsanitary conditions; or other hazardous conditions, adversely affects the public health, safety, morals, or welfare of the municipality and its residents, substantially retards the provision of a sound and healthful housing environment, or results in an economic or social liability to the municipality. The term includes an area certified as a disaster area as provided by Section 374.903.

(4) "Board" means a board, commission, department, division, office, body, or other municipal unit through which a municipality elects to perform urban renewal powers, duties, or other functions.

(5) "Bond" means any bond, including a refunding bond, note, interim certificate, certificate of indebtedness, debenture, or other obligation.

(6) "Captured market value" means the amount by which the current market value of property within the boundaries of an urban renewal project area exceeds its market value at the time the urban renewal project is designated under this chapter.

(7) "Conservation" means preserving and protecting an area from blight, and includes preventing an area susceptible to blight from becoming blighted.

(8) "Clerk" means the municipal clerk or other municipal officer who is the custodian of the official municipal records.

(9) "Comptroller" means the comptroller of public accounts.

(10) "Deterioration" means impairment of quality, character, value, or safety due to use, wear and tear, or other physical causes.

(11) "Federal government" means the United States, an agency of the United States, or a corporate or other instrumentality of the United States.

(12) "Mayor" means the mayor or other chief executive officer of a municipality.

(13) "Obligee" includes a bondholder, an agent or trustee for a bondholder, a lessor who demises property used in connection with an urban renewal project to the municipality, an assignee of any part of the lessor's interest, and the federal government as a party to a contract with the municipality.

(14) "Planning commission" means a municipal planning commission established under law or charter.

(15) "Public body" means the state, any political subdivision of the state, or a department, agency, or instrumentality of the state or of a political subdivision of the state.

(16) "Real property" includes land, improvements and fixtures on land, property of any nature that is appurtenant to or used in connection with land, and every legal or equitable estate, interest, right, or use in land, including terms for years and liens.

(17) "Rehabilitate" means to restore to a former state of solvency or efficiency or to a similar better state.

(18) "Rehabilitation" means the restoration of buildings or other structures to prevent deterioration of an area that is tending to become a blighted area or a slum area.

(19) "Slum area" means an area within a municipality that is detrimental to the public health, safety, morals, and welfare of the municipality because the area:

(A) has a predominance of buildings or other improvements that are dilapidated, deteriorated, or obsolete due to age or other reasons;

(B) is prone to high population densities and overcrowding due to inadequate provision for open space;

(C) is composed of open land that, because of its location within municipal limits, is necessary for sound community growth through replatting, planning, and development for predominantly residential uses; or

(D) has conditions that exist due to any of the causes enumerated in Paragraphs (A)-(C) or any combination of those causes that:

(i) endanger life or property by fire or other causes; or

(ii) are conducive to:

(a) the ill health of the residents;

(b) disease transmission;

(c) abnormally high rates of infant mortality;

(d) abnormally high rates of juvenile delinquency and crime; or

(e) disorderly development because of inadequate or improper platting for adequate residential development of lots, streets, and public utilities.

(20) "Tax assessor-collector" means the tax assessor-collector of the municipality.

(21) "Tax increment" means the amount of property taxes levied and collected each year on real property in an urban renewal project area in excess of the amount levied and collected on that property during the year preceding the date of the adoption of the urban renewal plan.

(22) "Tax increment base" means the aggregate market value of all taxable real property in an urban renewal project area on the date of approval of the urban renewal plan.

(23) "Taxable real property" does not include personal property or intangible property.

(24) "Taxing entity" means a governmental unit that is authorized by law to levy taxes on property located in an urban renewal project area. The term includes the state and a political subdivision of the state, but does not include a municipality.

(25) "Urban renewal activities" includes slum clearance, redevelopment, rehabilitation, and conservation activities to prevent further deterioration of an area that is tending to become a blighted or slum area. The term includes:

(A) the acquisition of all or part of a slum area or blighted area or the acquisition of land that is predominantly open and that, because of obsolete platting, diversity of ownership, deterioration of structures or site improvements, or for other reasons, substantially impairs or arrests the sound growth of the community;

(B) the demolition and removal of buildings and improvements;

(C) the installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary to fulfill urban renewal objectives in accordance with an urban renewal plan;

(D) the disposition by the municipality of property acquired in an urban renewal area for use in accordance with an urban renewal plan, including the sale or initial lease of the property at its fair value or the retention of the property;

(E) the implementation of plans for a program of voluntary repair and rehabilitation of buildings or improvements in accordance with an urban renewal plan; and

(F) the acquisition of real property in an urban renewal area as necessary to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

(26) "Urban renewal area" means a slum area, blighted area, or a combination of those areas that the governing body of a municipality designates as appropriate for an urban renewal project.

(27) "Urban renewal plan" means a plan for an urban renewal project that:

(A) conforms to the general municipal plan except as provided by Section 374.903; and

(B) includes:

(i) any zoning and planning changes;

(ii) building requirements;

(iii) land uses;

(iv) maximum densities;

(v) land acquisition;

(vi) redevelopment;

(vii) rehabilitation;

(viii) demolition and removal of structures; and

(ix) a description of the plan's relationship to local objectives relating to public transportation, traffic conditions, public utilities, recreational and community facilities, and other improvements.

(28) "Urban renewal project" includes any of the following activities undertaken in accordance with an urban renewal plan:

(A) municipal activities in an urban renewal area that are designed to eliminate or to prevent the development or spread of slums and blighted areas;

(B) slum clearance and redevelopment in an urban renewal area;

(C) rehabilitation or conservation in an urban renewal area;

(D) development of open land that, because of location or situation, is necessary for sound community growth and that is to be developed, by replatting and planning, for predominantly residential uses; or

(E) any combination or part of the activities described by Paragraphs (A)-(D). (V.A.C.S. Art. 12691-3, Sec. 4, Subdivs. (a), (c), (e)-(h), (i) (part), (j)-(p), (r)-(w), (y)-(cc), (dd) (part), (ee).)

[Sections 374.004–374.010 reserved for expansion]

SUBCHAPTER B. MUNICIPAL POWERS AND DUTIES RELATING
TO URBAN RENEWAL

Sec. 374.011. RESOLUTION; ELECTION. (a) Except as provided by Section 374.012, a municipality may not exercise a power granted under this chapter unless:

(1) the governing body of the municipality adopts a resolution that finds that a slum area or blighted area exists in the municipality and that the rehabilitation, the conservation, or the slum clearance and redevelopment of the area is necessary for the public health, safety, morals, or welfare of the residents of the municipality; and

(2) a majority of the municipality's voters voting in an election held as provided by Subsection (b) favor adoption of the resolution.

(b) Before adopting the resolution, the governing body must give notice of the proposed resolution and must hold an election on the question. The notice must be published at least twice in the newspaper officially designated by the governing body and must state that, on a date that is specified in the notice and that is after the 60th day after the date the notice is first published, the governing body will consider the question of holding an election to determine whether it should adopt the resolution. On the date specified in the notice to consider the question, the governing body may order an election on its own motion to consider the resolution. The governing body shall order an election on the question if it receives a petition during the notice period that is signed by at least five percent of the qualified voters of the municipality who own taxable real property included on the tax rolls of the municipality. If the governing body determines that it is necessary to order an election, it shall give at least 30 days' notice of the election.

(c) If a majority of the voters voting in the election are against the resolution, the governing body may not adopt it and may not propose the resolution again for a one-year period. (V.A.C.S. Art. 12691-3, Sec. 5(a).)

Sec. 374.012. ALTERNATE APPROVAL PROCESS FOR CERTAIN PROJECTS. (a) A municipality that did not approve the exercise of urban renewal powers under Section 374.011 before April 27, 1973, may approve the exercise of those powers for a specific urban renewal project in the alternative manner provided by this section.

(b) The governing body of the municipality must order and hold an election in the manner provided by Section 374.011.

(c) The resolution ordering the election and the notice of the election must contain:

(1) a complete legal description of the area included in the proposed project;

(2) a statement of the nature of the proposed project; and

(3) a statement of the total amount of local funds to be spent on the proposed project.

(d) The ballot proposition at the election need not contain a complete legal description of the area included in the project, but the proposition must contain a general description of the area that is sufficient to give notice to the voters of the location of the proposed project. The proposition must also contain a statement of the nature of the proposed project and the total amount of local funds to be spent on the project.

(e) If the ballot proposition is approved, the municipality may not exceed the limitations imposed on the project in the resolution ordering the election with respect to the area, nature, or amount of local funds spent on the project. If the municipality desires to expand the project beyond those limitations, the proposed expansion must be approved at an election in the manner provided for the original project.

(f) Voter approval is not required for preliminary planning of an urban renewal project.

(g) This section does not require further elections, resolutions, or actions of a municipality that has exercised urban renewal powers under this chapter as of April 27, 1973. (V.A.C.S. Art. 12691-3, Sec. 5a (part).)

Sec. 374.013. USE OF PUBLIC OR PRIVATE RESOURCES. (a) To further the urban renewal objectives of this chapter, a municipality may formulate a workable program to use appropriate private and public resources, including the resources specified by Subsection (b), to encourage urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake those activities or other feasible municipal activities as may be suitably employed to achieve the objective of the program. The program must specifically include provisions relating to:

(1) prevention, through diligent enforcement of housing and occupancy controls and standards, of the expansion of blight into areas of the municipality that are free from blight; and

(2) rehabilitation or conservation of slum and blighted areas as far as practicable to areas that are free from blight through replanning, removing congestion, providing parks, playgrounds, and other public improvements, encouraging voluntary rehabilitation and requiring the repair and rehabilitation of deteriorated or deteriorating structures, and the clearance and redevelopment of slum areas.

(b) Each municipality, to the greatest extent determined to be feasible, shall afford the maximum opportunity, consistent with the needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise. A municipality shall consider this objective in exercising powers under this chapter, including:

(1) formulation of a workable program for urban renewal under Subsection (a);

(2) approval of urban renewal plans consistent with the general plan of the municipality;

(3) exercise of zoning power;

(4) enforcement of other laws, codes, and regulations relating to land use, use and occupancy of buildings and improvements, and the disposition of any property acquired; and

(5) provision of necessary public improvements. (V.A.C.S. Art. 12691-3, Secs. 6, 8.)

Sec. 374.014. MUNICIPAL URBAN RENEWAL PLAN. (a) A municipality may not prepare an urban renewal plan for an area unless the governing body of the municipality has, by resolution, declared the area to be a slum area, a blighted area, or both, and has designated the area as appropriate for an urban renewal project. The governing body may not approve an urban renewal plan until a general plan has been prepared for the municipality. A municipality may not acquire real property for an urban renewal project until the governing body has approved the urban renewal plan as provided by Subsection (d).

(b) Any person may submit an urban renewal plan to the municipality. The governing body, before approving the plan, must submit the proposed plan to the urban renewal agency and the planning commission, if any, for review and recommendations as to the plan's conformity with the general plan for municipal development. The urban renewal agency and the planning commission shall submit written recommendations relating to the proposed urban renewal plan to the governing body within 30 days after the date the plan is received for review. On receipt of those recommendations, the governing body shall hold a hearing relating to the proposed plan as provided by Subsection (c). If recommendations are not proposed within the 30-day period, the governing body may hold the hearing without recommendations.

(c) The governing body must hold a public hearing on the proposed urban renewal plan before it may approve the urban renewal plan. The governing body shall publish notice of the hearing three times in a newspaper of general circulation in the municipality. The first notice must be published before the 30th day before the date of the hearing.

The notice must state the time, date, place, and purpose of the hearing, must generally identify the urban renewal area, and must describe the general scope of the urban renewal project under consideration.

(d) After the hearing, the governing body may approve an urban renewal plan if the governing body finds that:

- (1) a feasible method exists for the relocation, in decent, safe, affordable, and sanitary accommodations, of families or individuals who will be displaced from the urban renewal area, without undue hardship to those persons;
- (2) the urban renewal plan conforms to the general plan for municipal development; and
- (3) the urban renewal plan offers the maximum opportunity, consistent with the needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

(e) An urban renewal plan may be modified at any time. If modified after the lease or sale by the municipality of real property within the urban renewal project area, the modification is subject to the rights at law or in equity of the lessee or purchaser, or that person's successor in interest. If a proposed modification affects the street layout, land use, public utilities, zoning, if any, open space, or density of the area, the modification may not be made until it is submitted to the planning commission and a report is made to the governing body as provided by Subsection (b).

(f) After the municipality approves an urban renewal plan, the provisions of the plan that relate to the future use of the affected property and the building requirements applicable to the property control with respect to that property.

(g) If a building in a good state of repair is located in an urban renewal area and may be incorporated into an urban renewal project pattern or plan for that area, the building may not be acquired without the consent of the owner. If the owner of property in an urban renewal area agrees to use the property in a manner that is consistent with the purposes of the urban renewal plan and if improvements to the property do not constitute a fire or health hazard, that property is not subject to the exercise of eminent domain authority. A property owner may contest before the governing body any exercise of eminent domain authority that affects that person's individual ownership and may appeal to the district court. The review on appeal is by trial de novo. (V.A.C.S. Art. 12691-3, Secs. 7(a), (b), (c), (d), (e), (f), (g).)

Sec. 374.015. GENERAL MUNICIPAL POWERS RELATING TO URBAN RENEWAL. (a) A municipality may exercise all powers necessary or convenient to carry out the purposes of this chapter, including the power to:

- (1) conduct preliminary surveys to determine if undertaking an urban renewal project is feasible;
- (2) conduct urban renewal projects within its area of operation;
- (3) execute contracts and other instruments necessary or convenient to the exercise of its powers under this chapter;
- (4) provide, arrange, or contract for the furnishing or repair by any person of services, privileges, works, streets, roads, public utilities, or other facilities in connection with an urban renewal project, including installation, construction, and reconstruction of streets, utilities, parks, playgrounds, and other public improvements necessary to carry out an urban renewal project;
- (5) acquire any real property, including improvements, and any personal property necessary for administrative purposes, that is necessary or incidental to an urban renewal project, hold, improve, clear, or prepare the property for redevelopment, mortgage or otherwise encumber or dispose of the real property, insure or provide for the insurance of real or personal property or municipal operations against any risk or hazard and to pay premiums on that insurance, and enter any necessary contracts;
- (6) invest urban renewal project funds held in reserves or sinking funds, or not required for immediate disbursement, in property or securities in which banks may legally invest funds subject to their control, redeem bonds issued under Section 374.026

at the redemption price established in the bond, or purchase those bonds at less than the redemption price, and cancel the bonds redeemed or purchased;

(7) borrow money and apply for and accept advances, loans, grants, contributions, and other forms of financial assistance from the federal, state, or county government, other public body, or other public or private sources for the purposes of this chapter, give any required security, and make and carry out any contracts in connection with the financial assistance;

(8) make plans necessary to carry out this chapter in its area of operation, contract with any person in making and carrying out the plans, and adopt, approve, modify or amend the plans;

(9) develop, test, and report methods and techniques for the prevention of slums and urban blight, conduct demonstrations and other activities in connection with those methods and techniques, and apply for, accept, and use federal grants made for those purposes;

(10) prepare plans and provide reasonable assistance for the relocation of persons displaced from an urban renewal project area, including families, business concerns, and others, as necessary to acquire possession and to clear the area in order to conduct the urban renewal project;

(11) appropriate funds and make expenditures as necessary to implement this chapter and, subject to Subsection (c), levy taxes and assessments for that purpose;

(12) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places, plan, replan, zone, or rezone any part of the municipality and make exceptions from building regulations, and enter agreements with an urban renewal agency vested with urban renewal powers under Subchapter C, which may extend over any period, restricting action to be taken by the municipality under any of the powers granted under this chapter;

(13) organize, coordinate, and direct the administration of this chapter within the area of operation as those provisions apply to the municipality to most effectively promote and achieve the purposes of this chapter and establish new municipal offices or reorganize existing offices as necessary to most effectively implement those purposes; and

(14) issue tax increment bonds.

(b) A municipality may include in a contract made with the federal government for financial assistance for an urban renewal project the provisions and conditions imposed by federal law that the municipality considers reasonable, appropriate, and consistent with the purposes of this chapter.

(c) A municipality may not levy a tax or assessment under or for the purposes of this chapter until the proposed levy is submitted to the municipality's voters in an election on the question and a majority of those voting approve the levy.

(d) Except as provided by Section 374.016, a municipality may acquire by condemnation any interest in real property, including a fee simple interest, that the municipality considers necessary for or in connection with an urban renewal project. Property dedicated to a public use may be acquired in that manner, except that property belonging to the state or to a political subdivision of the state may not be acquired without the consent of the state or political subdivision. (V.A.C.S. Art. 1269l-3, Secs. 9 (part), 10 (part).)

Sec. 374.016. SLUM CLEARANCE. (a) In this section, "slum clearance and redevelopment section" means any substantial contiguous part of an urban renewal area that a municipality proposes to acquire and clear of all buildings, structures, and other improvements for redevelopment and reuse in accordance with the urban renewal plan.

(b) If an urban renewal project includes a slum clearance and redevelopment section that the municipality proposes to use for other than public use, the municipality may not use condemnation to acquire that property unless the municipality determines by resolution that the rehabilitation of that property without clearance would be impractical and ineffective. That determination must be based on a finding that at least 50 percent of the

structures in the section are dilapidated beyond the point of feasible rehabilitation or are otherwise unfit for rehabilitation, and that there exist other blighting characteristics, such as overcrowding of structures on the land, mixed uses of structures, deficient streets, or deficiencies in public utilities or recreational and community facilities. A municipality may exercise eminent domain authority as provided by Chapter 21, Property Code. (V.A.C.S. Art. 12691-3, Sec. 10 (part).)

Sec. 374.017. DISPOSITION OF PROPERTY. (a) Subject to the covenants, conditions, and restrictions, including covenants running with the land, that the municipality considers to be in the public interest or necessary to implement this chapter and that are written into the instrument transferring or conveying title, and after the governing body of the municipality approves the urban renewal plan, the municipality may:

(1) sell, lease, or otherwise transfer real property or an interest in real property in an urban renewal area for residential, recreational, commercial, industrial, or other uses, including a public use, and enter contracts relating to the transfer; or

(2) retain the property or interest for public use in accordance with the urban renewal plan.

(b) The original owner from whom property was acquired under this chapter by condemnation or through threat of condemnation has the first right to repurchase the property at the price at which it is offered.

(c) The purchaser or lessee of property transferred under this section, and a successor in interest to such a person, including an assignee, must devote the property to the uses specified in the urban renewal plan and may be obligated to comply with conditions specified in the deed of conveyance, including the requirement to begin any improvements required by the urban renewal plan within a reasonable time.

(d) Real property or an interest in real property subject to this section may only be sold, leased, or otherwise transferred or retained at not less than the fair value of the property for uses in accordance with the urban renewal plan. In determining the fair value, the municipality shall consider:

(1) the uses provided in the urban renewal plan;

(2) any restrictions on and any covenants, conditions, and obligations assumed by the purchaser, lessee, or municipality in retaining the property;

(3) the objectives of the plan for the prevention of the recurrence of slums or blighted areas; and

(4) any other matters that the municipality specifies as appropriate.

(e) The municipality or urban renewal agency may provide in an instrument of conveyance to a private purchaser or lessee that the purchaser or lessee may sell any or all of the unimproved property without profit to the seller. After improving a parcel of real property in accordance with the development plan adopted for the area, the purchaser may sell the parcel before completion of the development of the area or tract purchased, but the sale does not relieve that purchaser from the obligation of completing the development of that area or tract. The purchaser may sell a parcel of land purchased for redevelopment to another person who is obligated to improve the parcel as provided by the development plan for that project if the resale is without profit to the seller and if any subsequent purchaser is required to improve the property as provided by the urban renewal plan and by the conditions contained in the deed of conveyance.

(f) A municipality shall sell real property acquired by the municipality that is to be sold to private developers in accordance with the urban renewal plan as rapidly as is feasible in the public interest and consistent with the goals of the urban renewal plan. An instrument executed by a municipality or by an urban renewal agency that purports to convey any right, title, or interest in any property under this chapter is presumed to be executed in compliance with this chapter with respect to the title or interest of any bona fide lessee, transferee, or purchaser of the property.

(g) A municipality that sells real property in an urban renewal area to a private person must conduct the sale through competitive sealed bids after advertising the offer in the official publication or a newspaper of general circulation. The advertisement must be

published once before the 15th day before the date of the sale and must invite bids for the purchase of real property in the urban renewal area either in whole or in parcels as determined by the municipality. Before advertising for bids, the municipality shall adopt as part of the specifications in the general plan of improvement any conditions binding on the purchaser or the purchaser's successors in title, including heirs and assignees. The municipality or urban renewal agency may accept the highest and best responsible bid. The purchase price must be paid in cash. If the municipality or agency determines that the bids received are not satisfactory, it may reject all the bids and readvertise the offer. The urban renewal agency may not sell the property until the price and conditions of sale are approved by the governing body of the municipality. The municipality shall sell any real property acquired in connection with an urban renewal and rehabilitation project within a reasonable time for the purposes applicable to each project, except for the property retained by the municipality for public use. Property to be resold shall be sold within a reasonable time, taking into account the general economic situation at the time of sale.

(h) The municipality may temporarily lease any real property acquired in an urban renewal area, except property that is not fit for human habitation or that is declared substandard by any governmental agency. The lease must provide for a right of cancellation that permits the municipality to sell or dispose of the property for the purposes of this chapter.

(i) The former owner of any real property that is acquired under this chapter and that is not dedicated within a reasonable time to the purposes applicable to the urban renewal project for which it was acquired is entitled, after notice, to repurchase the property at the price for which it was acquired, less any actual damages sustained by the former owner because of the taking of the property, unless the property is devoted to the urban renewal purposes within 60 days after the date the former owner gives the record owner and the municipality written notice of the intention to exercise the right of repurchase. After a repurchase, any buildings placed on or allowed to remain on the property must conform to the pattern and intent of the urban renewal project if the project is completed.

(j) Any purchaser or lessee who is a private developer of any part of the real property acquired under this chapter may use that property as security to finance the development of the property. The purchaser or lessee may execute and deliver to a lender notes, deeds of trust with powers of sale, mortgages, and other instruments required in connection with obtaining and securing the repayment of the loan. The purchaser or lessee has all the rights, titles, and incidents of ownership available to a purchaser or lessee of land generally, and the person is entitled to mortgage and encumber the property for either the purchase price or for improvements in accordance with the objectives of this chapter. Any subsequent owner or lessee who acquires title through foreclosure of a lien given to secure the indebtedness or through a conveyance or assignment in satisfaction of debt takes title subject only to the restrictive covenants related to the use and improvement of the land that are contained in the original conveyance from the municipality. The owner's or lessee's interest is not subject to any condition precedent or condition subsequent that would result in reverter or forfeiture of title or to any restraint as to the amount for which the property may be resold or leased.

(k) Notwithstanding any other provision of this chapter or of any other law relating to competitive bid requirements, a municipality or urban renewal agency may sell urban renewal land for uses in accordance with an urban renewal plan to a public or private nonprofit corporation or foundation. The sale must be for at least the fair market value of the land as determined by the municipality or urban renewal agency. (V.A.C.S. Art. 1269I-3, Secs. 11, 22.)

[Sections 374.018-374.020 reserved for expansion]

SUBCHAPTER C. URBAN RENEWAL AGENCY

Sec. 374.021. EXERCISE OF URBAN RENEWAL PROJECT POWERS. (a) A municipality may exercise urban renewal project powers through a board or through municipal officers selected by the governing body of the municipality by resolution. The municipality may exercise those powers through an urban renewal agency created under this

subchapter if the governing body by resolution determines that the creation of an urban renewal agency is in the public interest. An urban renewal agency created under this subchapter may exercise all the urban renewal project powers of the municipality.

(b) In this section, "urban renewal project powers" includes the rights, powers, functions, and duties of a municipality under this chapter. The term does not include the power to:

- (1) determine an area as a slum area, blighted area, or both and to designate that area as appropriate for an urban renewal project;
- (2) approve and amend urban renewal plans and hold public hearings relating to those plans;
- (3) establish a general plan for the locality as a whole;
- (4) establish a workable program under Section 374.013;
- (5) make determinations and findings under Section 374.011(a), 374.013(b), or 374.014(d);
- (6) issue general obligation bonds; and
- (7) appropriate funds, levy taxes and assessments, and exercise other functions under Subdivisions (11) and (12) of Section 374.015(a). (V.A.C.S. Art. 12691-3, Secs. 15(a), (b).)

Sec. 374.022. CREATION OF URBAN RENEWAL AGENCY. (a) An urban renewal agency created in a municipality is a public body corporate and politic.

(b) An urban renewal agency may not transact business or exercise any powers under this chapter until the governing body of the municipality:

- (1) adopts a resolution as provided by Section 374.011; and
- (2) elects to exercise urban renewal project power through an urban renewal agency as provided by Section 374.021(a). (V.A.C.S. Art. 12691-3, Sec. 16(a).)

Sec. 374.023. BOARD OF COMMISSIONERS. (a) If an urban renewal agency is created by a municipality, the mayor of the municipality, with the advice and consent of the governing body of the municipality, shall appoint a board of commissioners for the urban renewal agency.

(b) The board must be composed of at least five but not more than nine members. A member serves a two-year term. The commissioners shall designate one member to serve as chairman and one to serve as vice-chairman for one-year terms. A member of the board must be a resident of the municipality and a real property owner. The number of commissioners shall be determined by the governing body at the time of the appointment of the commissioners and may not be changed more than once every two years. At the time of the initial appointments, a simple majority of the commissioners shall be designated to serve for a one-year term and the remaining members for two-year terms. If a vacancy occurs, the governing body shall fill the vacancy for the unexpired term in the same manner as the initial appointment.

(c) A commissioner serves without compensation but is entitled to necessary expenses incurred in the performance of official duties, including travel expenses.

(d) A certificate of appointment, which is conclusive evidence of the proper appointment of each commissioner, must be filed with the clerk of the municipality.

(e) If the board is composed of five, seven, or nine members, any action by the board, to be valid, must be adopted or rejected by a majority of the total number of the commissioners.

(f) The governing body may remove a commissioner for inefficiency, neglect of duty, or misconduct in office after notice of the charges and a hearing. The commissioner must receive a copy of the charges before the 10th day before the date of the hearing and must have the opportunity to be heard either in person or by counsel. (V.A.C.S. Art. 12691-3, Secs. 16(b), (c) (part), (d).)

Sec. 374.024. AGENCY PERSONNEL; REPORT. (a) An urban renewal agency may employ an executive director, technical experts, and other agents and employees as it determines necessary, and may determine the qualifications, duties, and compensation of

those personnel. An agency may employ or retain its own counsel and legal staff to perform required legal services.

(b) On or before March 31 of each year, an urban renewal agency shall file with the municipality a report of its activities for the preceding calendar year. If requested by the governing body of the municipality, the agency shall file a quarterly report. The report must include a complete financial statement by the agency that shows its assets, liabilities, income, and operating expenses as of the end of the reporting period.

(c) At the time the report is filed, the agency shall publish notice of the filing in a newspaper of general circulation in the municipality. The notice must state that the report is available for inspection during business hours in the office of the urban renewal agency and in the office of the municipal secretary. (V.A.C.S. Art. 12691-3, Sec. 16(c) (part).)

Sec. 374.025. APPROVAL REQUIREMENT. An urban renewal agency created under this subchapter may not undertake a renewal or rehabilitation project until the area proposed as a renewal or rehabilitation area and the plan of improvement for the project area are approved by the governing body of the municipality. (V.A.C.S. Art. 12691-3, Sec. 15(c).)

Sec. 374.026. URBAN RENEWAL BONDS. (a) An urban renewal agency created under this subchapter may issue bonds from time to time to finance an urban renewal project, including the payment of principal and interest on any advances for surveys and plans. The agency may also issue refunding bonds for the payment or retirement of bonds previously issued.

(b) Bonds issued under this section must be made payable, both as to principal and interest, only from the income, proceeds, revenues, and funds of the urban renewal agency that are derived from or held in connection with the conduct of urban renewal projects. Payment of the principal and interest of the bonds may be further secured by a pledge of any loan, grant, or contribution from the federal government, or from any other source, in aid of an urban renewal project, or by a mortgage of such a project if title is held by the urban renewal agency.

(c) A bond issued under this section is not an indebtedness of the state or of a political subdivision of the state other than the issuing urban renewal agency and is not subject to any other law relating to the authorization, issuance, or sale of bonds.

(d) A bond issued under this section is issued for an essential public and governmental purpose and is, with the interest on the bond and the income from it, exempt from taxes.

(e) A bond issued under this section must be authorized by a resolution or ordinance of the governing body of the urban renewal agency and may be issued in one or more series. The bond must bear the date, be payable on demand or mature at a time or times, bear interest at a rate, be in a denomination or denominations, be in either coupon or registered form, carry conversion or registration privileges, have a rank or priority, have a manner of execution, be payable in a medium of payment and at a place or places of payment, be subject to terms of redemption, with or without premium, be secured in a manner, and have any other characteristics, as provided by the resolution, trust indenture, or mortgage issued in relation to the bond.

(f) A bond issued under this section may be sold at not less than par at a public sale held after notice is published in a newspaper of general circulation in the area of operation and in any other medium of publication determined by the urban renewal agency and may also be exchanged for other bonds on a par basis. A bond issued under this section is fully negotiable.

(g) A bond issued under this section may be sold to the federal government at not less than par at a private sale. If less than all of the authorized principal amount of the bonds is sold to the federal government, the balance may be sold at a private sale at not less than par at an interest cost to the urban renewal agency that does not exceed the interest cost to the agency of the part of the bonds sold to the federal government.

(h) If the officials whose signatures appear on bonds or coupons issued under this section cease to be officials of the urban renewal agency before the delivery of the bonds, their signatures are valid for all purposes as if they had remained in office until delivery.

(i) In an action involving the validity or enforceability of a bond issued under this subchapter or the security for such a bond, a bond that recites in substance that it was issued by an urban renewal agency in connection with an urban renewal project is conclusively considered to have been issued for those purposes, and the project is conclusively considered to have been conducted in accordance with this chapter.

(j) A bank, trust company, banker, savings bank and institution, savings and loan association, investment company, and other person conducting a banking or investment business, an insurance company, insurance association, and other person conducting an insurance business, and an executor, administrator, curator, trustee, and other fiduciary may invest a sinking fund, money, or other fund belonging to it or in its control in any bonds or obligations issued by an urban renewal agency under this section. Those bonds or other obligations must be secured by an agreement between the issuer and the federal government in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, before the maturity of the bonds or other obligations, money in an amount that, together with any other money irrevocably committed to the payment of interest on the bonds or other obligations, is sufficient to pay the principal of the bonds or other obligations with interest to maturity. Under the terms of the agreement the money must be used to pay the principal of and interest on the bonds or other obligations at maturity. Those bonds and other obligations are authorized security for a public deposit. Any person may use funds owned or controlled by the person to purchase those bonds or obligations. This subsection does not relieve a person of a duty to exercise reasonable care in selecting securities. (V.A.C.S. Art. 1269I-3, Secs. 15(d) (part), (e).)

[Sections 374.027–374.030 reserved for expansion]

SUBCHAPTER D. TAX INCREMENT FINANCING FOR URBAN RENEWAL PROJECTS

Sec. 374.031. ELECTION REQUIRED. (a) A municipality may not use the tax increment method of financing prescribed under this subchapter unless a majority of the qualified voters of the municipality voting on the question approve that method of financing in an election held by the municipality.

(b) The ballot shall be printed to provide for voting for or against the proposition: "Use of tax increment financing for urban renewal purposes."

(c) The election may be held in conjunction with an election held under Section 374.011 or 374.012.

(d) This referendum is not required if the constitutional amendment on tax increment financing is approved by the voters. (V.A.C.S. Art. 1269I-3, Sec. 5b.)

Sec. 374.032. TAX INCREMENT FUND. On approval of an urban renewal plan by the governing body of a municipality and on approval of tax increment financing as required by Section 374.031, the governing body by resolution shall establish a fund known as the tax increment fund. (V.A.C.S. Art. 1269I-3, Sec. 7(i).)

Sec. 374.033. COMPUTATION OF TAX INCREMENTS. (a) A tax increment is computed by multiplying the total in property taxes levied and collected by the municipality and all other taxing entities on the taxable real property in an urban renewal project area in a year by a fraction, the numerator of which is equal to that year's market value of all taxable real property in the area minus the tax increment base and the denominator of which is equal to that year's market value of all taxable real property in the area.

(b) For the purposes of this chapter, only the tax assessor-collector determines the market value of property located in an urban renewal project area during the time that the project exists. The determination requires the concurrence of the comptroller. A property owner who is aggrieved by a determination of the tax assessor-collector has the same right of appeal as that provided by law to owners of property not affected by this chapter.

(c) At the time an urban renewal project is designated by the governing body, the tax assessor-collector shall, with the concurrence of the comptroller, certify to the governing body the market value of property within the boundaries of the urban renewal district.

The tax assessor-collector shall include at its most recently determined market value any property that is taxable at the time that the urban renewal project is designated and shall include at zero any property that is exempt from taxation at the time that the district is designated.

(d) The tax assessor-collector shall annually certify to the governing body the amount of the captured market value of property within the boundaries of the district and the amount of tax increments produced from that captured market value. The tax assessor-collector shall make the initial certification not later than one year from the date on which an urban renewal project is designated.

(e) For any year in which taxes are to be paid into the tax increment fund established under Section 374.032, a taxing entity may not consider any captured market value with respect to an urban renewal project in computing a debt limitation or for any other purpose except to determine the amount to be paid into the tax increment fund. (V.A.C.S. Art. 1269l-3, Sec. 4, Subdiv. (dd) (part); Sec. 22a.)

Sec. 374.034. ALLOCATION OF TAX COLLECTIONS AND TAX INCREMENTS; TAX INCREMENT FUND. (a) For the purposes of this chapter, the tax assessor-collector has the sole authority and the duty to collect the taxes levied by the municipality and all other taxing entities on property located within an urban renewal project and to allocate taxes and tax increments in the manner required by this chapter.

(b) Beginning with the first payment of taxes levied by the municipality or other taxing entity after the time an urban renewal project is designated, the receipts from those taxes shall be allocated and paid as provided by this subsection. The receipts from the property taxes collected that are produced from the tax increment base shall first be allocated and paid to the municipality or appropriate taxing entity. All tax increments produced from the captured market value of the property located within the urban renewal project district shall then be deposited into the tax increment fund established for the project. (V.A.C.S. Art. 1269l-3, Sec. 4, Subdiv. (ff) (part); Sec. 22b.)

Sec. 374.035. TAX INCREMENT BONDS. (a) A municipality may issue tax increment bonds, the proceeds of which may be used to pay redevelopment costs relating to the urban renewal project for which the bonds were issued or to satisfy claims of holders of those bonds. On the approval of two-thirds of the qualified voters of the municipality, the municipality may also issue refunding bonds for the payment or retirement of tax increment bonds previously issued by the municipality. The tax increment bonds may be made payable, both as to principal and interest, only from:

- (1) tax increments allocated to and paid into the tax increment fund established by the municipality under Section 374.032;
 - (2) private sources;
 - (3) contributions or other financial assistance from this state or the United States;
- or
- (4) a combination of those methods.

(b) A tax increment bond issued under this section, with the interest and income from the bond, is exempt from taxation. The period of maturity of a tax increment bond is limited to a maximum of 20 years from the date of issuance. Bonds issued under this section must be authorized by a resolution or ordinance of the governing body of the municipality and may be issued in one or more series. The bond must have the characteristics prescribed by Section 374.026(e) as provided by the resolution, trust indenture, or mortgage issued in relation to the bond.

(c) A bond issued under this section may be sold at not less than par at a public sale after notice published in a newspaper of general circulation in the municipality and in any other medium of publication determined by the governing body or may be exchanged for other bonds on a par basis. A bond issued under this section is fully negotiable.

(d) In an action or proceeding involving the validity or enforceability of a bond issued under this section or the security for such a bond, a bond that recites in substance that it is issued by the municipality in connection with an urban renewal project is conclusively considered to have been issued for those purposes, and the urban renewal project is

conclusively considered to have been planned, located, and carried out in accordance with this chapter.

(e) A bank, trust company, banker, savings bank and institution, savings and loan association, investment company, and other person conducting a banking or investment business, an insurance company, insurance association, and other person conducting an insurance business, and an executor, administrator, curator, trustee, and other fiduciary may invest a sinking fund, money, or other fund belonging to it or in its control in any tax increment bonds issued by a municipality under this section. The bond is an authorized security for a public deposit. Any person may use funds owned or controlled by the person to purchase those bonds. This subsection does not relieve a person of a duty to exercise reasonable care in selecting securities.

(f) Tax increment bonds may be paid only out of the tax increment fund established under Section 374.032. The governing body of the municipality may irrevocably pledge all or part of the fund to the payment of those bonds or notes. The fund or the designated part of the fund may only be used for the payment of those bonds and interest on those bonds until they have been fully paid. A holder of those bonds or coupons relating to the bonds has a lien against the fund for the payment of the bonds or notes and the interest on them and may protect and enforce that lien by an action at law or in equity.

(g) To increase the security and marketability of tax increment bonds, the municipality, according to its best judgment, may:

(1) create a lien for the benefit of the bondholders on a public improvement or public work financed by the bonds or on the revenue from the public improvement or public work; or

(2) make covenants and take other action as necessary, convenient, or desirable to additionally secure the bonds or make the bonds more marketable.

(h) A tax increment bond issued under this section is not a general obligation of the municipality, is not a charge against its general credit or taxing powers, and is not payable other than as provided by this chapter. The tax increment bond must state those limitations on its face.

(i) A tax increment bond issued under this section may not be included in computing the debt of the issuing municipality.

(j) Tax increment bonds may not be issued in an amount exceeding the aggregate costs of implementing the urban renewal plan for the project for which they were issued. (V.A.C.S. Art. 1269I-3, Secs. 22c(a), (b) (part), (c), (d), (e), (i), (j), (k).)

Sec. 374.036. DISBURSEMENTS FROM TAX INCREMENT FUND. (a) Money may be disbursed from a tax increment fund only to satisfy the claims of holders of tax increment bonds issued in aid of the urban renewal project with respect to which the fund was established or to pay project costs. In this section, "project costs" means any expenditure made or estimated to be made, or monetary obligations incurred or estimated to be incurred, by the municipality that are listed in an urban renewal project, plus any incidental costs, less any income or revenues other than tax increments, received or reasonably expected to be received by the municipality in connection with the implementation of the urban renewal plan. Those project costs include:

(1) capital costs, including:

(A) the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures;

(B) the costs of demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures;

(C) the costs of acquisition of equipment; and

(D) the costs of clearing and grading of land;

(2) financing costs, including interest paid to holders of tax increment bonds issued to pay for project costs and any premium paid over the principal amount because of the redemption of the obligation before maturity;

(3) professional service costs, including costs incurred for architectural, planning, engineering, or legal services;

(4) imputed administrative costs, including reasonable charges for the time spent by municipal employees in connection with the implementation of an urban renewal plan; and

(5) organizational costs, including the cost of conducting studies and the cost of informing the public with respect to the creation of urban renewal projects and the implementation of project plans.

(b) Subject to any agreement with holders of tax increment bonds, money in a tax increment fund may be temporarily invested in the same manner as other municipal funds.

(c) After project costs and tax increment bonds issued with respect to an urban renewal project have been paid or payment has been arranged, and subject to any agreement with bondholders, any money remaining in a tax increment fund shall be paid over to the municipality and to other taxing entities levying taxes on property within the project in amounts belonging to each entity. (V.A.C.S. Art. 12691-3, Sec. 4, Subdiv. (ff) (part); Secs. 22c(f), (g), (h).)

Sec. 374.037. MUNICIPAL ANNUAL REPORT; STATEMENT. (a) Before July 2 each year, the governing body of the municipality shall submit to the chief executive officer of each taxing entity a report on the status of each urban renewal district. The report must include statements of:

(1) the amount and source of revenue in the tax increment fund established under Section 374.032;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on any outstanding bonded indebtedness;

(4) the tax increment base and the current captured market value retained by the urban renewal project; and

(5) the captured market value shared by the municipality and other taxing entities, the total in received tax increments, and any additional information required to demonstrate compliance with the tax increment financing plan adopted by the governing body.

(b) On or before July 1 each year, the governing body shall publish a statement in a newspaper of general circulation in the municipality showing:

(1) the tax increment received and expended during the previous year;

(2) the original market value and captured market value of all property located within the urban renewal project;

(3) the amount in outstanding indebtedness incurred in aid of the urban renewal project; and

(4) any additional information the governing body considers necessary. (V.A.C.S. Art. 12691-3, Sec. 22d.)

[Sections 374.038–374.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 374.901. USE OF ACQUIRED PROPERTY FOR PUBLIC HOUSING. (a) Except as provided by Subsection (b), real property acquired under this chapter may not be sold, leased, granted, conveyed, or otherwise made available for public housing.

(b) Real property acquired under this chapter may be made available for public housing if the municipality holds an election at which a majority of the qualified voters voting in the election approve that use of the property. The municipality shall conduct the election in the manner provided for an election under Section 374.011. The ballot shall be printed to provide for voting for or against the proposition: "Permitting the use of land acquired by urban renewal for public housing."

(c) If the qualified voters of a municipality have approved the use of land acquired under this chapter for public housing, the municipality may order an election on prohibiting the use of that land for public housing. The municipality shall conduct the election in the manner provided by Subsection (b), except that the ballot shall be printed to provide for voting for or against the proposition: "Prohibiting the use of land acquired by urban renewal for public housing." If a majority of the voters voting in the election favor prohibiting the use of the land for public housing, the prohibition contained in Subsection (a) applies. An election that results in the prohibition of the use of land for public housing does not affect land that has been made available for public housing at the time of the election.

(d) If a municipality holds an election under this section, the municipality may not hold another election under this section for one year. (V.A.C.S. Art. 12691-3, Secs. 3(a), (b) (part), (c), (d).)

Sec. 374.902. EXERCISE OF URBAN RENEWAL POWERS BY CERTAIN COUNTIES. (a) Unless the context clearly requires otherwise, a statement in this chapter that applies to a mayor applies to the county judge of a county exercising powers under this section, a statement that applies to the governing body of a municipality applies to the county's commissioners court, and a statement that applies to a municipality applies to the county.

(b) A county with a population of more than 700,000 may exercise the powers provided for municipalities under this chapter with respect to areas of the county that are not within the corporate boundaries of a municipality. The county may not exercise those powers until the commissioners court of the county adopts a resolution in the manner provided by Section 374.011 for adoption of a resolution by a municipality. The resolution must be approved at an election held in the county in the manner provided for a municipal election under Section 374.011. The adoption of the resolution is not approved unless a majority of the voters who vote on the question in the entire county as well as in each municipality in the county approve the adoption of the resolution. In a municipality that is only partially located in the affected county, only voters who reside in the county may vote. (V.A.C.S. Art. 12691-3, Secs. 4(x), 5(b).)

Sec. 374.903. URBAN RENEWAL IN DISASTER AREA. If the governing body of a municipality certifies that an area needs redevelopment or rehabilitation because of a flood, fire, hurricane, earthquake, storm, or other catastrophe for which the governor has certified the state's need for disaster assistance under applicable federal law, the governing body may approve an urban renewal plan and an urban renewal project for the affected area without regard to Section 374.014(d) and to the provisions of this chapter that require a general plan for the municipality and a public hearing on the urban renewal project. (V.A.C.S. Art. 12691-3, Sec. 7(h).)

Sec. 374.904. COSTS OF RELOCATION. If the relocating, raising, rerouting, changing of grade, or altering the construction of a railroad, electric transmission line, pipeline, or telephone or telegraph property or facility is made necessary by the exercise of powers conferred under this chapter on a municipality, an urban renewal agency, or another public body, the necessary action shall be made at the expense of the public body that made the change necessary. (V.A.C.S. Art. 12691-3, Sec. 10a.)

Sec. 374.905. MUNICIPAL PROPERTY EXEMPT FROM LEVY AND EXECUTION. (a) All municipal property, including funds, owned or held for the municipality for the purposes of this chapter are exempt from levy and sale by execution. An execution or other judicial proceeding may not issue against the property, and a judgment against the municipality may not be a charge or lien on that property. This subsection does not apply to or limit the right of an obligee to pursue any remedies for the enforcement of any pledge or lien given under this chapter by a municipality on its rents, fees, grants, or revenues from urban renewal projects.

(b) If real property in the urban renewal project area is acquired and is owned as part of the project by a municipality or the urban renewal agency, and the project is not subject to ad valorem taxes because of Subsection (a), the gross project cost may include reasonable payments in lieu of taxes. (V.A.C.S. Art. 12691-3, Sec. 12.)

Sec. 374.906. **POWERS OF PUBLIC BODY.** (a) To aid in the planning or implementation of an urban renewal project located within the area in which it is authorized to act, any public body, after determining that a project is beneficial to its residents and after setting terms with or without consideration, may:

- (1) dedicate, sell, convey, or lease any of its interest in any urban renewal project or grant easements, licenses, or other rights and privileges in the project to a municipality or urban renewal agency;
- (2) incur the entire expense of any public improvements made by the public body in exercising the powers granted under this section;
- (3) do anything necessary to aid or cooperate in the planning or implementation of an urban renewal plan;
- (4) lend, grant, or contribute funds to a municipality or an urban renewal agency;
- (5) enter into agreements that may extend over any period with a municipality, urban renewal agency, or other public body relating to action to be taken by the public body under any of the powers granted under this chapter, including furnishing funds or other assistance in connection with an urban renewal project;
- (6) furnish public buildings and public facilities, including parks, playgrounds, recreational facilities, community facilities, educational facilities, water, sewer, or drainage facilities, or other public works;
- (7) furnish, dedicate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places;
- (8) plan, replan, zone, or rezone any part of the public body or make exceptions from building regulations; or
- (9) furnish administrative and other services to the municipality or urban renewal agency.

(b) If title to or possession of any urban renewal project is held by the federal government, the provisions of an agreement under this section inure to and may be enforced by the federal government.

(c) A sale, conveyance, lease, or agreement under this section may be made by and between public bodies without appraisal, public notice, advertisement, or public bidding.

(d) To aid in planning or conducting an urban renewal project through an urban renewal agency under this chapter, a municipality may perform all of the functions that a public body may perform under Subsection (a), including furnishing financial and other assistance.

(e) For the purposes of this section or to aid in the planning or carrying out of a municipal urban renewal project, a municipality may issue and sell general obligation bonds in addition to bonds issued under Section 374.026. Bonds issued under this section must be issued in the manner and are subject to the limitations generally provided by the laws of this state for the issuance and authorization of municipal bonds for public purposes. (V.A.C.S. Art. 12691-3, Secs. 13(a) (part), (b), (c), (d).)

Sec. 374.907. **TITLE OF PURCHASER.** An instrument executed by a municipality or by an urban renewal agency that purports to convey a right, title, or interest in property under this chapter is conclusively presumed to have been executed in compliance with this chapter as regards the title or other interest of a bona fide purchaser, lessee, or transferee of the property. (V.A.C.S. Art. 12691-3, Sec. 14.)

Sec. 374.908. **CONFLICT OF INTEREST.** (a) A public official or employee of a municipality, including an official or employee of an urban renewal agency that exercises urban renewal project powers for a municipality under Subchapter C or of any other municipal board or commission, may not voluntarily acquire any direct or indirect interest in an urban renewal project, in any property included or planned to be included in an urban renewal project or plan, or in any contract, or contract proposed, in connection with an urban renewal project.

(b) If the acquisition is not voluntary, the official or employee shall immediately disclose the acquisition of the interest in writing to the governing body of the municipali-

ty. The governing body shall enter the disclosure on its minutes. Not later than three months after the date on which the involuntary acquisition occurs, the official or employee shall either resign the position with the municipality or divest the interest.

(c) If the official or employee owns or controls any direct or indirect interest in property that the person knows is included or planned to be included in an urban renewal project, or if the official or employee owned or controlled any such interest at any time during the two-year period preceding the inclusion or planned inclusion of the property in an urban renewal project, the official or employee shall immediately disclose that fact in writing to the governing body of the municipality. The governing body shall enter the disclosure on its minutes. The official or employee may not participate in any action by the municipality or by the urban renewal agency that affects the property.

(d) Any required disclosure made under this section to the governing body of the municipality must also be made at the same time to the urban renewal agency that exercises urban renewal project powers under Section 374.021. A commissioner or other officer of an urban renewal agency or other board who exercises powers under this chapter may not hold any other public office with the municipality.

(e) A violation of this section is official misconduct. (V.A.C.S. Art. 1269I-3, Sec. 18.)

Sec. 374.909. JUDICIAL PROCEEDINGS. (a) An action brought to review, modify, suspend, or satisfy a rule, order, decision, or other act of the governing body of a municipality or other agency shall be trial de novo as that term is used in an appeal from a justice of the peace court to a county court. In the trial, no presumptions in favor of the order or rule apply, and evidence relating to the validity or reasonableness of the order or rule may not be heard. The determination of the action shall be made on the facts as in other civil cases, and the procedure used and the determination of orders and judgments to be entered in the trial shall be under the rules of law, evidence, and procedure prescribed under the constitution, statutes, and rules of procedure of this state applicable to civil trials.

(b) The trial of an action brought under this section shall be strictly de novo and the decision in the action shall be made on the preponderance of the evidence presented at the trial, independent of any administrative action taken by the board and free from the application of the substantial evidence rule stated by the courts relating to orders of other administrative or quasi-judicial agencies. (V.A.C.S. Art. 1269I-3, Sec. 17.)

Sec. 374.910. EFFECT ON MUNICIPAL POWERS. (a) This chapter does not repeal a charter provision adopted by a home-rule municipality to accomplish the same purposes as this chapter. This chapter is cumulative of municipal powers.

(b) The powers conferred by this chapter are supplemental to the powers conferred on municipalities by the charters of home-rule municipalities of this state. (V.A.C.S. Art. 1269I-3, Secs. 20 (part), 21 (part).)

[Chapters 375–380 reserved for expansion]

SUBTITLE B. COUNTY PLANNING AND DEVELOPMENT

CHAPTER 381. COUNTY DEVELOPMENT AND GROWTH

Sec. 381.001. COUNTY INDUSTRIAL COMMISSION

Sec. 381.002. ADVERTISING AND PROMOTING GROWTH AND DEVELOPMENT

Sec. 381.003. DEVELOPMENT PROJECTS AUTHORIZED UNDER FEDERAL LAW

SUBTITLE B. COUNTY PLANNING AND DEVELOPMENT

CHAPTER 381. COUNTY DEVELOPMENT AND GROWTH

Sec. 381.001. COUNTY INDUSTRIAL COMMISSION. (a) The county judge of a county may appoint a county industrial commission.

(b) The commission must consist of not less than seven persons who must be residents of the county and must have exhibited interest in the industrial development of the county.

(c) In a county with a population of 13,300 to 13,350, or 14,650 to 14,800, or 17,900 to 18,100, or 22,600 to 23,000, a person appointed to the commission also must be serving or must have served on an industrial foundation committee, commissioners court, municipality's governing body, or school board. In addition, in those counties information obtained by the commission shall be available to the commissioners court.

(d) A member of the commission serves a term of two years.

(e) The county may pay the necessary expenses of the commission.

(f) The commission shall investigate and undertake ways of promoting the prosperous development of business, industry, and commerce in the county. The commission shall promote the location and development of new businesses and industries in the county and the maintenance and expansion of existing businesses.

(g) The commission shall cooperate with and use the services of the Texas Economic Development Commission. (V.A.C.S. Arts. 1581g-1, 1581g-2.)

Sec. 381.002. ADVERTISING AND PROMOTING GROWTH AND DEVELOPMENT. (a) This section applies only to a county with a population of more than 50,000.

(b) If authorized by a majority vote of the qualified voters of the county voting at an election, the commissioners court of the county may appropriate from the county's general fund an amount not to exceed five cents on the \$100 assessed valuation to advertise and promote the growth and development of the county. That money constitutes a separate fund to be known as the board of development fund and may be used only for board purposes.

(c) In a county qualifying under this section, a board of development is created. The board shall devote its time and effort to advertising and promoting the growth and development of the county.

(d) The board consists of five members who are appointed by the commissioners court and who serve terms of two years from the date of appointment. Members serve without compensation. Vacancies on the board shall be filled by the commissioners court in the same manner as the original appointments.

(e) Annually, the board shall prepare and submit to the commissioners court a budget for the ensuing year in the same manner required of counties.

(f) Subject to the approval of the commissioners court, the board may spend for personnel, rent, or materials any sum reasonably necessary to accomplish its purposes.

(g) Before a claim against the board is presented for payment, the claim must be approved by the board. After approval of the claim, it must be presented to the commissioners court and the commissioners court shall act on it in the same manner in which it acts on any other claim against the commissioners court.

(h) Although a county may operate under another law authorizing the appropriation of money or levy of a tax for advertising and promotion purposes, the county may not appropriate more for those purposes than the amount provided by Subsection (b).

(i) The authority to levy the tax provided by this section applies only to a county with a population of more than 100,000. (V.A.C.S. Art. 2352d; Secs. 2, 3, 4, Ch. 351, Acts 54th Leg., 1955.)

Sec. 381.003. DEVELOPMENT PROJECTS AUTHORIZED UNDER FEDERAL LAW. (a) The commissioners court of a county may administer or otherwise engage in community and economic development projects authorized under Title I of the Housing and Community Development Act of 1974 or under any other federal law creating community and economic development programs.

(b) This section does not authorize a commissioners court to exercise any ordinance-making authority not otherwise specifically granted by state law. (V.A.C.S. Art. 2351i.)

[Chapters 382–390 reserved for expansion]

SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 391. REGIONAL PLANNING COMMISSIONS

- Sec. 391.001. PURPOSE
- Sec. 391.002. DEFINITIONS
- Sec. 391.003. CREATION
- Sec. 391.004. PLANS AND RECOMMENDATIONS
- Sec. 391.005. POWERS
- Sec. 391.006. GOVERNING BODY OF COMMISSION
- Sec. 391.007. DETAIL OR LOAN OF AN EMPLOYEE
- Sec. 391.008. REVIEW AND COMMENT PROCEDURES
- Sec. 391.009. ROLE OF GOVERNOR AND STATE AGENCIES
- Sec. 391.010. CONFLICT OF INTEREST IN PROVISION OF LEGAL SERVICES
- Sec. 391.011. FUNDS
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- Sec. 391.013. INTERSTATE COMMISSIONS
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SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 391. REGIONAL PLANNING COMMISSIONS

Sec. 391.001. PURPOSE. (a) The purpose of this chapter is to encourage and permit local governmental units to:

- (1) join and cooperate to improve the health, safety, and general welfare of their residents; and
- (2) plan for the future development of communities, areas, and regions so that:
 - (A) the planning of transportation systems is improved;
 - (B) adequate street, utility, health, educational, recreational, and other essential facilities are provided as the communities, areas, and regions grow;
 - (C) the needs of agriculture, business, and industry are recognized;
 - (D) healthful surroundings for family life in residential areas are provided;
 - (E) historical and cultural values are preserved; and
 - (F) the efficient and economical use of public funds is commensurate with the growth of the communities, areas, and regions.

(b) The general purpose of a commission is to make studies and plans to guide the unified, far-reaching development of a region, eliminate duplication, and promote economy and efficiency in the coordinated development of a region. (V.A.C.S. Art. 1011m, Secs. 2, 4(a) (part).)

Sec. 391.002. DEFINITIONS. In this chapter:

- (1) "Governmental unit" means a county, municipality, authority, district, or other political subdivision of the state.
- (2) "Commission" means a regional planning commission, council of governments, or similar regional planning agency created under this chapter.
- (3) "Region" means a geographic area consisting of a county or two or more adjoining counties that have, in any combination:

- (A) common problems of transportation, water supply, drainage, or land use;

(B) similar, common, or interrelated forms of urban development or concentration;
or

(C) special problems of agriculture, forestry, conservation, or other matters.
(V.A.C.S. Art. 1011m, Sec. 1, Subsecs. B, C, D (part).)

Sec. 391.003. CREATION. (a) Any combination of counties or municipalities or of counties and municipalities may agree, by ordinance, resolution, rule, order, or other means, to establish a commission.

(b) The agreement must designate a region for the commission that:

(1) consists of territory under the jurisdiction of the counties or municipalities, including extraterritorial jurisdiction; and

(2) is consistent with the geographic boundaries for state planning regions or subregions that are delineated by the governor and that are subject to review and change at the end of each state biennium.

(c) A commission is a political subdivision of the state.

(d) This chapter permits participating governmental units the greatest possible flexibility to organize a commission most suitable to their view of the region's problems.

(e) The counties and municipalities making the agreement may join in the exercise of, or in acting cooperatively in regard to, planning, powers, and duties as provided by law for any or all of the counties and municipalities. (V.A.C.S. Art. 1011m, Sec. 1, Subsec. D (part); Secs. 3, 4(a) (part).)

Sec. 391.004. PLANS AND RECOMMENDATIONS. (a) A commission may plan for the development of a region and make recommendations concerning major thoroughfares, streets, traffic and transportation studies, bridges, airports, parks, recreation sites, school sites, public utilities, land use, water supply, sanitation facilities, drainage, public buildings, population density, open spaces, and other items relating to the commission's general purposes.

(b) A plan or recommendation of a commission may be adopted in whole or in part by the governing body of a participating governmental unit.

(c) A commission may assist a participating governmental unit in:

(1) carrying out a plan or recommendation developed by the commission; and

(2) preparing and carrying out local planning consistent with the general purpose of this chapter. (V.A.C.S. Art. 1011m, Sec. 4(a) (part), (b).)

Sec. 391.005. POWERS. (a) A commission may contract with a participating governmental unit to perform a service if:

(1) the participating governmental unit could contract with a private organization without governmental powers to perform the service; and

(2) the contract to perform the service does not impose a cost or obligation on a participating governmental unit not a party to the contract.

(b) A commission may:

(1) purchase, lease, or otherwise acquire property;

(2) hold or sell or otherwise dispose of property;

(3) employ staff and consult with and retain experts; or

(4)(A) provide retirement benefits for its employees through a jointly contributory retirement plan with an agency, firm, or corporation authorized to do business in the state; or

(B) participate in the Texas Municipal Retirement System, the Employees Retirement System of Texas, or the Texas County and District Retirement System when those systems by legislation or administrative arrangement permit participation.

(c) Participating governmental units may by joint agreement provide for the manner of cooperation between participating governmental units and provide for the methods of operation of the commission, including:

(1) employment of staff and consultants;

- (2) apportionment of costs and expenses;
- (3) purchase of property and materials; and
- (4) addition of a governmental unit. (V.A.C.S. Art. 1011m, Secs. 4(c), (d); 5 (part).)

Sec. 391.006. **GOVERNING BODY OF COMMISSION.** (a) Participating governmental units may by joint agreement determine the number and qualifications of members of the governing body of a commission.

(b) At least two-thirds of the members of a governing body of a commission must be elected officials of participating counties or municipalities. (V.A.C.S. Art. 1011m, Sec. 5 (part).)

Sec. 391.007. **DETAIL OR LOAN OF AN EMPLOYEE.** (a) A state agency or a governmental unit may detail or loan an employee to a commission.

(b) During the period of the detail or loan, the employee continues to receive salary, leave, retirement, and other personnel benefits from the lending agency or governmental unit but works under the direction and supervision of the commission.

(c) The detail or loan of an employee may be on a reimbursable or nonreimbursable basis as agreed by the lending agency or governmental unit and the commission. The detail or loan expires at the mutual consent of the lending agency or governmental unit and the commission. (V.A.C.S. Art. 1011m, Sec. 4(e).)

Sec. 391.008. **REVIEW AND COMMENT PROCEDURES.** (a) In a state planning region or subregion in which a commission has been organized, the governing body of a governmental unit within the region or subregion, whether or not a member of the commission, shall submit to the commission for review and comment an application for a loan or grant-in-aid from a state agency, and from a federal agency if the project is one for which the federal government requires review and comment by an areawide planning agency, before the application is filed with the state or federal government.

(b) For federally aided projects for which an areawide review is required by federal law or regulation, the commission shall review the application from the standpoint of consistency with regional plans and other considerations as specified in federal or state regulations and shall enter its comments on the application and return it to the originating governmental unit.

(c) For other federally aided projects and for state-aided projects, the commission shall advise the governmental unit on whether the proposed project for which funds are requested has regionwide significance.

(d) If the proposed project has regionwide significance, the commission shall determine whether it is in conflict with a regional plan or policy. It may consider whether the proposed project is properly coordinated with other existing or proposed projects within the region. The commission shall record on the application its view and comments, transmit the application to the originating governmental unit, and send a copy to the concerned federal or state agency.

(e) If the proposed project does not have regionwide significance, the commission shall certify that it is not in conflict with a regional plan or policy. (V.A.C.S. Art. 1011m, Secs. 4(f), (g).)

Sec. 391.009. **ROLE OF GOVERNOR AND STATE AGENCIES.** (a) The governor shall issue guidelines to commissions and governmental units to carry out the provisions of this chapter relating to review and comment procedures.

(b) The governor and state agencies shall provide technical information and assistance to the members and staff of a commission to increase, to the greatest extent feasible, the capability of the commission to discharge its duties and responsibilities prescribed by this chapter. (V.A.C.S. Art. 1011m, Secs. 4(h), (i).)

Sec. 391.010. **CONFLICT OF INTEREST IN PROVISION OF LEGAL SERVICES.**

(a) A member of the governing body of a commission or a person who provides legal services to a commission may not:

- (1) provide legal representation before or to the commission on behalf of a governmental unit located, in whole or in part, within the boundaries of the commission; or

(2) be a shareholder, partner, or employee of a law firm that provides those legal services to the governmental unit.

(b) A person who violates Subsection (a) may not receive compensation or reimbursement for expenses from the commission or governmental unit. (V.A.C.S. Art. 1011m, Sec. 5A.)

Sec. 391.011. FUNDS. (a) A commission does not have power to tax.

(b) A participating governmental unit may appropriate funds to a commission for the costs and expenses required in the performance of its purposes.

(c) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental unit, the state, the federal government, or other source. (V.A.C.S. Art. 1011m, Secs. 6(a), (b).)

Sec. 391.012. STATE FINANCIAL ASSISTANCE. (a) To qualify for state financial assistance, a commission must:

(1) have funds available annually from sources other than federal or state governments equal to or greater than half of the state financial assistance for which the commission applies;

(2) comply with the regulations of the agency responsible for administering this chapter;

(3) offer membership in the commission to all counties and municipalities included in the state planning region or subregion;

(4) include any combination of counties or municipalities having a combined population equal to or greater than 60 percent of the population of the state planning region or subregion;

(5) include at least one full county;

(6) encompass an area that is economically and geographically interrelated and forms a logical planning region; and

(7) be engaged in a comprehensive development planning process.

(b) A comprehensive development planning process must assess the needs and resources of a region, formulate goals, objectives, policies and standards to guide the long-range physical, economic, and human resource development of a region, and prepare plans and programs that:

(1) identify alternative courses of action and the special and functional relationships among the activities to be carried out;

(2) specify the appropriate ordering in time of activities;

(3) take into account other relevant factors affecting the achievement of the desired development of the region;

(4) provide an overall framework and guide for the preparation of function and project development plans;

(5) make recommendations for long-range programming and financing of capital projects and facilities that are of mutual concern to two or more participating governmental units; and

(6) make other appropriate recommendations.

(c) A commission that qualifies for state financial assistance is eligible annually for a maximum amount of:

(1) \$10,000 base grant;

(2) an additional \$1,000 for each dues-paying member county; and

(3) an additional 10 cents per capita for the population of dues-paying member counties and municipalities.

(d) The minimum amount of annual state financial assistance for which a commission may apply is \$15,000.

(e) For the purposes of this section, the population of a county is the population outside all dues-paying member municipalities. (V.A.C.S. Art. 1011m, Sec. 1, Subsec. E; Secs. 6(c), (d), (e).)

Sec. 391.013. INTERSTATE COMMISSIONS. (a) With the advance approval of the governor, a commission that borders another state may:

- (1) join with a similar commission or planning agency in a contiguous area of the bordering state to form an interstate commission; or
- (2) permit a similar commission or planning agency in a contiguous area of the bordering state to participate in planning functions.

(b) Funds provided a commission may be commingled with funds provided by the government of the bordering state. (V.A.C.S. Art. 1011m, Sec. 7.)

Sec. 391.014. INTERNATIONAL AREAS. With the advance approval of the governor, a commission that borders the Republic of Mexico may spend funds in cooperation with an agency, constituent state, or local government of the Republic of Mexico for planning studies encompassing areas lying both in this state and in contiguous territory of the Republic of Mexico. (V.A.C.S. Art. 1011m, Sec. 8.)

Sec. 391.015. WITHDRAWAL FROM COMMISSION. A participating governmental unit may withdraw from a commission by majority vote of its governing body unless it has been otherwise agreed. (V.A.C.S. Art. 1011m, Sec. 9.)

CHAPTER 392. HOUSING AUTHORITIES ESTABLISHED BY MUNICIPALITIES AND COUNTIES

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CHAPTER 392. HOUSING AUTHORITIES ESTABLISHED BY MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 392.001. SHORT TITLE. This chapter may be cited as the Housing Authorities Law. (V.A.C.S. Art. 1269k, Sec. 1.)

Sec. 392.002. DEFINITIONS. In this chapter:

(1) "Authority" or "housing authority" means a public corporation created under this chapter.

(2) "Bond" means a bond, note, interim certificate, debenture, or other obligation issued by an authority under this chapter.

(3) "Clerk of the municipality" means the clerk of a municipality or the officer given the duties customarily imposed on the clerk.

(4) "Farmers of low income" means persons or families who, at the time of their admission to occupancy in housing of a housing authority:

(A) live in unsafe or unsanitary housing;

(B) earn their principal income from operating or working on a farm; and

(C) had an aggregate average annual net income for the preceding three years that is less than the amount determined by the housing authority to be necessary, in its area of operation, to obtain, without financial assistance, decent, safe, and sanitary housing without overcrowding.

(5) "Federal government" includes the United States, the Department of Housing and Urban Development, and any other agency or instrumentality, corporate or otherwise, of the United States.

(6) "Housing project" means a work or other undertaking to:

(A) demolish, clear, or remove buildings from a slum area, including a work or other undertaking to adapt an area for use as a park, for another recreational or community purpose, or for any other public purpose;

(B) provide decent, safe, and sanitary urban or rural housing for persons of low income, including buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, and parks, or for other purposes, including site preparation, gardening, administrative, community, health, recreational, educational, or welfare purposes;

(C) accomplish a combination of the purposes described by Paragraphs (A) and (B); or

(D) plan buildings and other improvements, acquire property, demolish structures, construct, reconstruct, alter, and repair improvements, and perform other related work.

(7) "Mayor" means the mayor of a municipality or the officer given the duties customarily imposed on the mayor or executive head of a municipality.

(8) "Obligee of the authority" or "obligee" includes:

- (A) a bondholder;
- (B) a trustee of a bondholder;
- (C) a lessor demising to the authority any property used in connection with a housing project;
- (D) an assignee of the interest, or part of the interest, of a lessor demising to the authority any property used in connection with a housing project; and
- (E) the federal government if it is a party to a contract with the authority.

(9) "Persons of low income" means families or persons who lack the amount of income that an authority considers necessary to live, without financial assistance, in decent, safe, and sanitary housing without overcrowding.

(10) "Real property" means land, including improvements, fixtures, and other property appurtenant to or used in connection with the land and means any other estate, interest, or legal or equitable right in the land, improvement, fixture, or appurtenant property, including a term for years, a lien of any kind, and any indebtedness secured by a lien.

(11) "Slum" means an area that is predominated by housing that is detrimental to safety, health, and morals because of one or more of the following factors:

- (A) dilapidation;
- (B) overcrowding;
- (C) faulty arrangement or design; or
- (D) lack of ventilation, light, or sanitary facilities. (V.A.C.S. Art. 1269k, Secs. 3(a), (d), (e), (g)-(m); 23a (part); 23e (part); 23h.)

Sec. 392.003. LEGISLATIVE FINDINGS. The legislature finds that:

(1) there is a shortage of safe or sanitary housing at rents that persons of low income can afford that forces persons of low income to live in unsanitary or unsafe housing and in overcrowded and congested housing;

(2) these housing conditions are responsible for an increase in and spread of disease and crime, are a menace to the health, safety, morals, and welfare of the residents of the state, impair economic values, and necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities;

(3) the unsafe and unsanitary housing cannot be cleared and the shortage of safe and sanitary housing for persons of low income cannot be relieved by private enterprise;

(4) the construction of housing projects for persons of low income would not be competitive with private enterprise;

(5) the clearance, replanning, and reconstruction of the areas in which unsanitary or unsafe housing exists and the providing of safe and sanitary housing for persons of low income are public uses and purposes and governmental functions of state concern for which public money may be spent and private property acquired;

(6) it is in the public interest that work on low income housing projects commence as soon as possible to relieve the unemployment emergency; and

(7) this chapter is necessary in the public interest. (V.A.C.S. Art. 1269k, Sec. 2.)

Sec. 392.004. OPERATION NOT FOR PROFIT. It is the policy of the state that a housing authority manage and operate its housing projects in an efficient manner to enable it to set rentals at the lowest possible rates consistent with providing decent, safe, and sanitary housing and that a housing authority may not construct or operate a project for profit or as a source of revenue to a municipality or county. For this purpose, an authority shall set rentals at a rate not higher than the rate necessary, together with other available money, revenue, income, and receipts, to produce revenue that is sufficient to:

- (1) pay the principal and interest as it becomes due on bonds of the authority;

- (2) meet the cost of and provide for maintaining and operating the projects, including insurance;
- (3) pay the administrative expenses of the authority; and
- (4) create, during not less than the six years immediately succeeding its issuance of any bonds, a reserve sufficient to meet the largest principal and interest payments that will be due on the bonds in any year and to maintain the reserve. (V.A.C.S. Art. 1269k, Sec. 9.)

Sec. 392.005. TAX EXEMPTION. (a) The property of an authority is public property used for essential public and governmental purposes. The authority and the authority's property are exempt from all taxes and special assessments of a municipality, a county, another political subdivision, or the state.

(b) If a municipality, county, or political subdivision furnishes improvements, services, or facilities for a housing project, an authority may, in lieu of paying taxes or special assessments, agree to reimburse in payments to the municipality, county, or political subdivision an amount not greater than the estimated cost to the municipality, county, or political subdivision for the improvements, services, or facilities. (V.A.C.S. Art. 1269k, Sec. 22.)

[Sections 392.006–392.010 reserved for expansion]

SUBCHAPTER B. CREATION AND AREA OF OPERATION OF A HOUSING AUTHORITY

Sec. 392.011. CREATION OF A MUNICIPAL HOUSING AUTHORITY. (a) A housing authority is created in each municipality in the state.

(b) A municipal housing authority is a public body corporate and politic.

(c) A municipal housing authority may not transact business or exercise its powers until the governing body of the municipality declares by resolution that there is a need for the authority.

(d) The governing body of a municipality may determine on its own motion if there is a need for an authority.

(e) The governing body of a municipality shall determine if there is a need for an authority on the filing of a petition signed by at least 100 qualified voters of the municipality.

(f) The governing body of a municipality shall adopt a resolution declaring that there is a need for a housing authority if it finds that there is:

(1) unsanitary or unsafe inhabited housing in the municipality; or

(2) a shortage of safe or sanitary housing in the municipality available to persons of low income at rentals that they can afford.

(g) In determining whether housing is unsafe or unsanitary, the governing body may consider the degree of overcrowding, the percentage of land coverage, the availability to inhabitants of light, air, space, and access, the size and arrangement of rooms, the sanitary facilities, and the extent to which conditions in the housing subject life or property to the danger of fire or other hazard.

(h) In a proceeding involving the validity or enforcement of, or relating to, a contract of the authority, proof of the adoption of a resolution by the governing body that declares that there is a need for the authority and makes the finding that either or both of the requirements of Subsection (f) exist is conclusive evidence of the establishment of the authority and of its authority to transact business and exercise its powers under this chapter. A copy of the resolution that is certified by the clerk of the municipality is admissible in evidence in the proceeding. (V.A.C.S. Art. 1269k, Sec. 4.)

Sec. 392.012. CREATION OF A COUNTY HOUSING AUTHORITY. (a) A housing authority is created in each county in the state.

(b) A county housing authority is a public body corporate and politic.

(c) A county housing authority may not transact business or exercise its powers until the commissioners court of the county declares by resolution that there is a need for the authority.

(d) The commissioners court of a county may determine on its own motion if there is a need for an authority.

(e) The commissioners court of a county shall determine if there is a need for an authority on the filing of a petition signed by at least 100 qualified voters of the county.

(f) The commissioners court of a county shall adopt a resolution declaring that there is a need for a housing authority if it finds that there is:

(1) unsanitary or unsafe inhabited housing in the county; or

(2) a shortage of safe or sanitary housing in the county available to persons of low income at rentals that they can afford.

(g) In determining whether housing is unsafe or unsanitary, the commissioners court may consider the degree of overcrowding, the percentage of land coverage, the availability to inhabitants of light, air, space, and access, the size and arrangement of rooms, the sanitary facilities, and the extent to which conditions in the housing subject life or property to the danger of fire or other hazard.

(h) In a proceeding involving the validity or enforcement of, or relating to, a contract of the authority, proof of the adoption of a resolution by the commissioners court that declares that there is a need for the authority and makes the finding that either or both of the requirements of Subsection (f) exist is conclusive evidence of the establishment of the authority and of its authority to transact business and exercise its powers under this chapter. A copy of the resolution that is certified by the county clerk is admissible in evidence in the proceeding. (V.A.C.S. Art. 1269k, Sec. 23a (part).)

Sec. 392.013. CREATION OF A REGIONAL HOUSING AUTHORITY. (a) If the commissioners courts of two or more contiguous counties declare by resolution that there is a need for a housing authority to exercise the powers of a regional housing authority under this chapter in the counties, a regional housing authority is created for the counties.

(b) A regional housing authority is a public body corporate and politic.

(c) A commissioners court shall adopt a resolution declaring that there is a need for a regional housing authority only if the commissioners court finds that:

(1) there is unsanitary or unsafe inhabited housing in the county or a shortage of safe or sanitary housing in the county available to persons of low income at rentals that they can afford; and

(2) a regional housing authority would be a more efficient or economical administrative unit than a county housing authority to carry out the purposes of this chapter for the county.

(d) In determining whether housing is unsafe or unsanitary, the commissioners court shall consider the safety and sanitation of the housing, the availability to inhabitants of light and air space, the degree of overcrowding, the size and arrangement of rooms, and the extent to which conditions in the housing subject life or property to the danger of fire or other hazard.

(e) If a county housing authority has outstanding obligations, the commissioners court may not adopt a resolution declaring a need for a regional housing authority unless:

(1) each obligee of the county housing authority and each party to a contract, bond, note, or other obligation of the authority agrees to the substitution of a regional housing authority on the contract, bond, note, or other obligation; and

(2) the commissioners of the county housing authority adopt a resolution consenting to the transfer of the rights, contracts, obligations, and real and personal property of the county housing authority to a regional housing authority.

(f) Before a resolution authorized by this section may be adopted, the commissioners court must hold a public hearing. Before the 10th day before the date of the hearing, the county clerk shall publish notice of the time, place, and purpose of the hearing in a

newspaper published in the county or, if no newspaper is published in the county, in a newspaper published in the state with general circulation in the county. At the hearing, the commissioners court shall grant an opportunity to be heard to residents of the county and other interested persons.

(g) In a proceeding involving the validity or enforcement of, or relating to, a contract of a regional housing authority, proof of an adoption of a resolution by the commissioners court of each county in the regional housing authority that declares that there is a need for the authority and makes the finding that the requirements of Subsection (c) exist is conclusive evidence that the regional housing authority is created and established as a public body corporate and politic that is authorized to transact business and exercise its powers under this chapter. A copy of the resolution of a commissioners court that is certified by the county clerk is admissible in evidence in the proceeding.

(h) When a regional housing authority is created:

(1) the rights, contracts, agreements, obligations, and property of the county housing authority become those of the regional housing authority;

(2) the county housing authority shall execute a deed of the property to the regional housing authority, which shall file the deed with the county clerk of the county where the real property is located; and

(3) a person with rights or remedies against the county housing authority may assert, enforce, and prosecute those rights or remedies against the regional housing authority.

(i) The vesting of the real property in the regional housing authority is not contingent on compliance with the provisions of Subsection (h)(2).

(j) At the time a regional housing authority is created, the county housing authority in a county for which the regional housing authority is created ceases to exist except for the purpose of winding up its affairs and executing the deed of its real property to the regional housing authority. (V.A.C.S. Art. 1269k, Secs. 23b; 23c(i) (part), (j) (part).)

Sec. 392.014. AREA OF OPERATION OF A MUNICIPAL HOUSING AUTHORITY. The area of operation of a municipal housing authority is the municipality for which the authority is created and the area that is within five miles of the territorial boundaries of the municipality and is not within the territorial boundaries of another municipality. (V.A.C.S. Art. 1269k, Sec. 3(f).)

Sec. 392.015. AREA OF OPERATION OF A COUNTY HOUSING AUTHORITY. The area of operation of a county housing authority is the county in which the authority is created excluding the parts of the county that are within the territorial boundaries of a municipality. (V.A.C.S. Art. 1269k, Sec. 23a (part).)

Sec. 392.016. AREA OF OPERATION OF A REGIONAL HOUSING AUTHORITY. The area of operation of a regional housing authority is the counties for which the authority is created excluding the parts of the counties that are within the territorial boundaries of a municipality. (V.A.C.S. Art. 1269k, Sec. 23c(a) (part).)

Sec. 392.017. OPERATION OF A COUNTY OR REGIONAL HOUSING AUTHORITY IN A MUNICIPALITY. A county or regional housing authority may not undertake a housing project in a municipality unless a resolution is adopted by the governing body of the municipality and by the housing authority authorized to exercise its powers in the municipality, if any, declaring a need for the county or regional housing authority to exercise its powers in the municipality. (V.A.C.S. Art. 1269k, Sec. 23c(a) (part).)

Sec. 392.018. EXPANSION OF THE AREA OF OPERATION OF A REGIONAL HOUSING AUTHORITY. (a) If the commissioners of a regional housing authority, the commissioners court of each county in the authority, and the commissioners court of a county outside the authority each adopt a resolution declaring that there is a need to include the county that is outside the authority in the area of operation of the authority, the area of operation of the authority is increased to include that part of the county not within the territorial boundaries of a municipality.

(b) The commissioners of the authority, the commissioners court of each county in the authority, and the commissioners court of the county outside the authority shall adopt the resolution required for expansion under Subsection (a) if:

(1) the commissioners court of the county outside the authority finds that there is unsanitary or unsafe inhabited housing in the county or a shortage of safe or sanitary housing in the county available to persons of low income at rentals they can afford; and

(2) the commissioners of the authority, the commissioners court of each county in the authority, and the commissioners court of the county outside the authority find that the regional housing authority would be a more efficient or economical administrative unit to carry out the purposes of this chapter if the county outside the authority is included in the area of operation of the authority.

(c) In determining whether housing is unsafe or unsanitary, the commissioners court shall consider the safety and sanitation of the housing, the availability to inhabitants of light and air space, the degree of overcrowding, the size and arrangement of rooms, and the extent to which conditions in the housing subject life or property to the danger of fire or other hazard.

(d) If the housing authority of the county outside the regional housing authority has outstanding obligations, the resolutions required for expansion under Subsection (a) may not be adopted unless:

(1) each obligee of the county housing authority and each party to a contract, bond, note, or other obligation of the authority agrees to the substitution of the regional housing authority on the contract, bond, note, or other obligation; and

(2) the commissioners of the county housing authority and of the regional housing authority adopt resolutions consenting to the transfer of the rights, contracts, obligations, and real and personal property of the county housing authority to the regional housing authority.

(e) If an obligee whose agreement is required by Subsection (d)(1) is unknown, the county housing authority shall publish a notice in a newspaper of general national circulation that states:

(1) the name of the county housing authority;

(2) the name of the regional housing authority;

(3) that the county and regional housing authorities propose that the regional housing authority be substituted for the county housing authority on the contracts, bonds, notes, and other obligations of the county housing authority and that the county housing authority be terminated; and

(4) an address where objections to the substitution may be sent.

(f) The failure to receive an objection to the substitution of the regional housing authority on the obligations of the county housing authority on or before the 30th day after the date of the publication of the notice is equivalent to the unknown obligee's consent to the substitution.

(g) Before a resolution may be adopted under this section by the commissioners court, the court must hold a public hearing. Before the 10th day before the date of the hearing, the county clerk shall publish notice of the time, place, and purpose of the hearing in a newspaper published in the county or, if no newspaper is published in the county, in a newspaper published in the state with general circulation in the county. At the hearing, the commissioners court shall grant an opportunity to be heard to residents of the county and other interested persons.

(h) When all resolutions required by Subsections (a) and (d)(2) are adopted:

(1) the county housing authority of the county added to the area of operation of the regional housing authority ceases to exist except to wind up its affairs and to execute the deed to the regional housing authority as required by Subdivision (3);

(2) the rights, contracts, agreements, obligations, and property of the county housing authority become those of the regional housing authority;

- (3) the county housing authority shall execute a deed of the property to the regional housing authority, which shall file the deed with the county clerk of the county where the property is located; and
- (4) a person with rights and remedies against the county housing authority may assert, enforce, and prosecute those rights and remedies against the regional housing authority.
- (i) The vesting of the real property is not contingent on compliance with Subsection (h)(3). (V.A.C.S. Art. 1269k, Secs. 23c(b), (c), (d), (e), (f), (g), (i) (part), (j) (part).)

[Sections 392.019–392.030 reserved for expansion]

SUBCHAPTER C. COMMISSIONERS AND EMPLOYEES

Sec. 392.031. APPOINTMENT OF COMMISSIONERS OF A MUNICIPAL HOUSING AUTHORITY. (a) If the governing body of a municipality adopts a resolution declaring a need for a housing authority, the governing body shall promptly notify the mayor of the adoption. On receiving the notice, the mayor shall appoint five persons to serve as commissioners of the authority.

(b) A commissioner may not be an officer or employee of the municipality.

(c) A certificate of the appointment of a commissioner shall be filed with the clerk of the municipality. The certificate is conclusive evidence of the proper appointment of the commissioner. (V.A.C.S. Art. 1269k, Sec. 5 (part).)

Sec. 392.032. APPOINTMENT OF COMMISSIONERS OF A COUNTY HOUSING AUTHORITY. (a) If the commissioners court adopts a resolution declaring a need for a county housing authority, the commissioners court shall appoint five persons to serve as commissioners of the authority.

(b) A commissioner of the authority may not be an officer or employee of the county.

(c) A certificate of the appointment of a commissioner shall be filed with the county clerk. The certificate is conclusive evidence of the proper appointment of the commissioner. (V.A.C.S. Art. 1269k, Sec. 23a (part).)

Sec. 392.033. APPOINTMENT OF COMMISSIONERS OF A REGIONAL HOUSING AUTHORITY. (a) On creation of a regional housing authority, the commissioners court of each county in the authority shall appoint a person to serve as a commissioner of the authority. Subsequently, the commissioners court of each county shall appoint successors to the commissioner of the authority appointed by that commissioners court.

(b) If the area of operation of an authority is increased to include another county, the commissioners court of that county shall appoint a person to serve as a commissioner of the authority and, subsequently, the successors to that commissioner.

(c) If there are only two counties in the housing authority, the commissioners of the authority appointed by the commissioners courts shall appoint an additional commissioner to serve as commissioner of the authority. Subsequently, the commissioners of the authority appointed by the commissioners courts shall appoint a person to succeed the additional commissioner if the successor's term of office begins during their term of office. If the area of operation of the authority is increased to more than two counties, a successor to the additional commissioner is not appointed.

(d) A certificate of the appointment of a commissioner appointed by a commissioners court shall be filed with the county clerk. The certificate is conclusive evidence of the proper appointment of the commissioner.

(e) A certificate of the appointment of an additional commissioner by the commissioners of an authority composed of only two counties shall be filed with the records of the authority. The certificate is conclusive evidence of the proper appointment of the commissioner. (V.A.C.S. Art. 1269k, Sec. 23d (part).)

Sec. 392.034. TERMS OF OFFICE OF COMMISSIONERS. (a) Two of the original commissioners of a municipal or county housing authority shall be designated to serve one-year terms from the date of their appointment, and three shall be designated to serve two-year terms. Subsequent commissioners are appointed for two-year terms.

(b) Commissioners of a regional housing authority are appointed for two-year terms.

(c) Vacancies shall be filled for the unexpired term. (V.A.C.S. Art. 1269k, Sec. 5 (part), Sec. 23d (part).)

Sec. 392.035. COMPENSATION. A commissioner of a housing authority may not receive compensation for service as a commissioner. A commissioner is entitled to receive reimbursement for the necessary expense, including traveling expenses, incurred in the discharge of duties as a commissioner. (V.A.C.S. Art. 1269k, Sec. 5 (part).)

Sec. 392.036. VOTE REQUIRED FOR ACTION. Unless the authority's bylaws require a larger number, when a quorum is present an authority may take action on a vote of a majority of the commissioners present. (V.A.C.S. Art. 1269k, Sec. 5 (part).)

Sec. 392.037. CHAIRMAN AND VICE-CHAIRMAN OF A MUNICIPAL OR COUNTY HOUSING AUTHORITY. (a) The mayor shall designate one of the initial commissioners of a municipal housing authority as chairman. The commissioners court shall designate one of the initial commissioners of a county housing authority as chairman. Subsequently, when the office of chairman becomes vacant the authority shall select one of the commissioners as chairman.

(b) A municipal or county housing authority shall select one of the commissioners as vice-chairman. (V.A.C.S. Art. 1269k, Sec. 5 (part).)

Sec. 392.038. OTHER OFFICERS AND EMPLOYEES OF A MUNICIPAL OR COUNTY HOUSING AUTHORITY. A municipal or county housing authority may employ a secretary, who shall serve as executive director, and may employ technical experts and other officers, agents, and employees, permanent or temporary, the authority considers necessary. The authority shall determine the qualifications, duties, and compensation of the persons employed. (V.A.C.S. Art. 1269k, Sec. 5 (part).)

Sec. 392.039. OFFICERS AND EMPLOYEES OF A REGIONAL HOUSING AUTHORITY. (a) The commissioners of a regional housing authority shall elect a chairman from among the commissioners.

(b) The commissioners of a regional housing authority may select or employ other officers and employees the commissioners consider necessary. (V.A.C.S. Art. 1269k, Sec. 23d (part).)

Sec. 392.040. LEGAL SERVICES. (a) A municipal housing authority may request needed legal services from the city attorney or it may employ its own counsel and legal staff.

(b) A county housing authority may request needed legal services from the county attorney or it may employ its own counsel and legal staff.

(c) A regional housing authority may request needed legal services from the county attorney of a county in the authority or it may employ its own counsel and legal staff. (V.A.C.S. Art. 1269k, Sec. 5 (part).)

Sec. 392.041. REMOVAL OF A COMMISSIONER. (a) The mayor may remove a commissioner of a municipal housing authority for inefficiency, neglect of duty, or misconduct in office.

(b) The commissioners court may remove a commissioner of a county housing authority for inefficiency, neglect of duty, or misconduct in office.

(c) For inefficiency, neglect of duty, or misconduct in office, the commissioners court may remove a commissioner of a regional housing authority who was appointed by the commissioners court.

(d) For inefficiency, neglect of duty, or misconduct in office, the commissioners of a regional housing authority consisting of only two counties may remove the additional commissioner appointed by the commissioners.

(e) Before a commissioner may be removed, the commissioner must be given:

(1) a copy of the charges before the 10th day before the date of a hearing on the charges; and

(2) an opportunity to be heard in person or by counsel at the hearing.

(f) If a commissioner of a municipal housing authority is removed, a record of the proceedings with the charges and findings shall be filed in the office of the clerk of the municipality.

(g) If a commissioner of a county housing authority is removed, a record of the proceedings with the charges and findings shall be filed in the office of the county clerk.

(h) If a commissioner of a regional housing authority is removed, a record of the proceedings with the charges and findings shall be filed in the office of the county clerk if the commissioner was appointed by a commissioners court or shall be filed with the records of the authority if the commissioner was appointed by the other commissioners of the authority. (V.A.C.S. Art. 1269k, Secs. 7, 23a (part), 23d (part).)

Sec. 392.042. INTERESTED COMMISSIONERS. (a) In this section, "housing project" includes, in addition to the works or undertakings described by Subdivision (6) of Section 392.002:

(1) a work or undertaking implemented for a reason described by Subdivision (6) of Section 392.002 that is financed in any way by public funds or tax-exempt revenue bonds; or

(2) a building over which the housing authority has jurisdiction and of which a part is reserved for occupancy by persons who receive income or rental supplements from a governmental entity.

(b) Except as provided by Subsection (c), a commissioner of an authority may not have dealings with a housing project for pecuniary gain and may not own, acquire, or control a direct or indirect interest in a:

(1) housing project;

(2) property included or planned to be included in a housing project;

(3) contract or proposed contract for the sale of land to be used for a housing project;

(4) contract or proposed contract for the construction of a housing project; or

(5) contract or proposed contract for the sale of materials or services to be furnished or used in connection with a housing project.

(c) A commissioner may:

(1) manage a housing project;

(2) own, acquire, or control a management company that renders management services to a housing project;

(3) continue to own or control an interest in a housing project held by the commissioner before the commissioner's term of office began; or

(4) own, acquire, or control an interest in, or have dealings with, a housing project over which the commissioner's housing authority does not have jurisdiction.

(d) If a commissioner manages, owns, acquires, or controls a direct or indirect interest in property included or planned to be included in a housing project or has any other dealings for pecuniary gain with a housing project, the commissioner shall immediately disclose the interest or dealings to the authority in writing. The disclosure shall be entered in the minutes of the authority. The failure to disclose the interest constitutes misconduct of office.

(e) A commissioner who knowingly or intentionally violates Subsection (b) or (d) commits an offense. An offense under this subsection is a felony of the third degree.

(f) A person finally convicted under Subsection (e) is ineligible for future employment with the state, a political subdivision of the state, or a public corporation formed under the authority of the state or a political subdivision of the state. (V.A.C.S. Art. 1269k, Secs. 6, 13a(d).)

Sec. 392.043. INTERESTED EMPLOYEES. (a) Except as provided by Subsection (b), an employee of an authority may not have dealings with a housing project for pecuniary gain and may not own, acquire, or control a direct or indirect interest in a:

(1) housing project;

- (2) property included or planned to be included in a housing project;
 - (3) contract or proposed contract for the sale of land to be used for a housing project;
 - (4) contract or proposed contract for the construction of a housing project; or
 - (5) contract or proposed contract for the sale of materials or services to be furnished or used in connection with a housing project.
- (b) An employee may not have any dealings with a housing project for pecuniary gain except in the performance of duties as an employee of the housing authority.
- (c) An employee who knowingly or intentionally violates Subsection (a) commits an offense. An offense under this subsection is a felony of the third degree.
- (d) A person finally convicted under Subsection (c) is ineligible for future employment with the state, a political subdivision of the state, or a public corporation formed under the authority of the state or a political subdivision of the state. (V.A.C.S. Art. 1269k, Sec. 6a.)

[Sections 392.044–392.050 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES OF A HOUSING AUTHORITY

Sec. 392.051. GENERAL POWERS. (a) An authority exercises public and essential governmental functions and has the powers necessary or convenient to accomplish the purposes and provisions of this chapter.

- (b) The powers of an authority are vested in the commissioners of the authority.
- (c) An authority may delegate a power or duty to an agent or employee as it considers proper. (V.A.C.S. Art. 1269k, Secs. 5 (part), 8 (part), 23d (part).)

Sec. 392.052. OPERATION, CONSTRUCTION, AND LEASING OF HOUSING PROJECTS. (a) An authority may prepare, carry out, acquire, lease, and operate a housing project in its area of operation.

(b) An authority may provide for the construction, improvement, alteration, or repair of a housing project, or part of a housing project, in its area of operation.

(c) An authority may arrange or contract for services, privileges, works, or facilities for, or in connection with, a housing project or the occupants of a housing project to be furnished by a person or public or private agency.

(d) Without regard to another provision in this chapter or other law, an authority may include stipulations in a contract made in connection with a housing project that require the contractor and subcontractors to comply with the requirements regarding minimum wages and maximum hours of labor and with any conditions the federal government has attached to its financial aid to the project.

(e) An authority may lease or rent housing, land, buildings, structures, or facilities included in a housing project at rents established or revised, subject to the limitations of this chapter, by the authority.

(f) An authority may take action necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance, or operation of a housing project, including action to:

- (1) borrow money or accept grants or other financial assistance from the federal government for, or in aid of, a housing project in the authority's area of operation;
- (2) take over, lease, or manage a housing project or undertaking constructed or owned by the federal government; and
- (3) comply with conditions and enter into mortgages, trust indentures, leases, or agreements that are necessary, convenient, or desirable to accomplish the acts listed in Subdivisions (1) and (2).

(g) A housing project is subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the site of the housing project. In planning a housing project, including site location, an authority shall consider the relationship of the

project to a larger plan or long-range program for the development of the area within the housing authority. (V.A.C.S. Art. 1269k, Secs. 8 (part), 13, 21.)

Sec. 392.053. PUBLIC MEETING ON PROPOSED HOUSING PROJECT. (a) In this section, "housing project" includes, in addition to the works or undertakings described by Subdivision (6) of Section 392.002:

(1) a work or undertaking implemented for a reason described by Subdivision (6) of Section 392.002 that is financed in any way by public funds or tax-exempt revenue bonds; or

(2) a building over which the housing authority has jurisdiction and of which a part is reserved for occupancy by persons who receive income or rental supplements from a governmental entity.

(b) Unless the commissioners of an authority hold a public meeting about a proposed housing project before the site for the project is approved, the authority may not authorize the construction of the housing project or obtain a permit, certificate, or other authorization required by a municipality or other political subdivision for any part of the construction of the housing project. A majority of the commissioners must attend the public meeting.

(c) The commissioners shall hold the meeting at the closest available facility to the site of the proposed project.

(d) The commissioners shall allow a person who owns or leases real property within one-fourth mile of the proposed site to comment on the proposed project.

(e) If a housing authority has not complied with the requirements of this section and Section 392.054, a municipality or other political subdivision may not issue a permit, certificate, or other authorization for any part of the construction of, or for the occupancy of, a housing project. (V.A.C.S. Art. 1269k, Secs. 13a(a), (c), (d).)

Sec. 392.054. NOTICE OF PUBLIC MEETING. (a) In addition to any other notice required by law, the commissioners of an authority shall post notice of the date, hour, place, and subject of a meeting required by Section 392.053. The notice must be posted before the 30th day before the date of the meeting on a bulletin board at a place convenient to the public in:

(1) the county courthouse of the county in which the proposed site is located; and

(2) the city hall of the municipality in which the proposed site is located, if applicable.

(b) Before the 30th day before the date of the meeting, the commissioners shall publish a copy of the notice required by Subsection (a) in a newspaper with, or in newspapers that collectively have, general circulation in the county in which the proposed project is located.

(c) Before the 30th day before the date of the meeting, the commissioners shall mail a notice containing the same information as the notice required by Subsection (a) to each person who owns real property within one-fourth mile of the site of the proposed project. The commissioners may rely on the most recent county tax roll for the names and addresses of the owners.

(d) At a location at the proposed site that is visible from a regularly traveled thoroughfare, before the 30th day before the date of the meeting the commissioners shall post a sign not less than four feet by four feet with a caption stating "Site of Proposed Housing Project" in eight-inch letters. The sign must state the nature and location of the proposed project, the names and addresses of the governmental entities involved in the development of the project, and the date, time, and place of the meeting. (V.A.C.S. Art. 1269k, Sec. 13a(b).)

Sec. 392.055. RENTALS AND TENANT SELECTION. (a) An authority may rent or lease housing only to persons of low income and only at rentals that persons of low income can afford.

(b) An authority may not rent or lease housing to a tenant that consists of a greater number of rooms than the number the authority considers necessary to provide safe and sanitary housing to the proposed occupants without overcrowding.

(c) Except as provided by Subsection (d), an authority may not accept a person as a tenant if the person has an annual income, or the persons who would occupy the housing have an aggregate annual income, in excess of five times the annual rental of the housing excluding the income earned by children attending school full-time.

(d) An authority may not accept as tenants a family with three or more minor dependents if the family has an aggregate annual income, excluding the income earned by children attending school full-time, in excess of six times the annual rental of the housing.

(e) Regardless of whether the services or facilities are actually included in the rental of housing, for the purposes of Subsections (c) and (d) an authority shall include in the computation of the rental the average annual cost to the occupants, as determined by the authority, of heat, water, electricity, gas, use of a cooking range, and other necessary services or facilities. (V.A.C.S. Art. 1269k, Sec. 10 (part).)

Sec. 392.056. ACQUISITION, USE, AND DISPOSITION OF REAL AND PERSONAL PROPERTY. (a) An authority may own, hold, and improve real or personal property.

(b) An authority may purchase, lease, or obtain an option on an interest in real or personal property. An authority may acquire an interest in real or personal property by gift, grant, bequest, devise, or any other manner.

(c) An authority may sell, lease, exchange, transfer, assign, pledge, or dispose of an interest in real or personal property to insure, or provide for the insurance of, the authority's real property, personal property, or operations against risks or hazards.

(d) Regardless of whether the debt is incurred by the authority, an authority may procure insurance or guarantees from the federal government of the payment of a debt, or part of a debt, secured by a mortgage on property included in a housing project.

(e) Another law with respect to the acquisition, operation, or disposition of property by another public body does not apply to a housing authority unless specifically provided by the legislature. (V.A.C.S. Art. 1269k, Sec. 8 (part).)

Sec. 392.057. INVESTMENT OF FUNDS. An authority may invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which a savings bank may legally invest funds subject to its control. (V.A.C.S. Art. 1269k, Sec. 8 (part).)

Sec. 392.058. RESEARCH AND INVESTIGATION. (a) An authority may research, study, and experiment on the subject of housing in its area of operation.

(b) An authority may investigate housing conditions and methods of improving housing conditions in its area of operation.

(c) An authority may determine where there is a slum area or a shortage of decent, safe, and sanitary housing available to persons of low income in its area of operation.

(d) An authority may make studies and recommendations relating to the problems of clearing, replanning, and reconstructing slum areas and of providing housing for persons of low income in its area of operation. (V.A.C.S. Art. 1269k, Sec. 8 (part).)

Sec. 392.059. COOPERATION WITH OTHER GOVERNMENTAL ENTITIES OR HOUSING AUTHORITIES. (a) An authority may cooperate with a municipality, a county, another political subdivision of this state, or the state in action taken in connection with the problems of clearing, replanning, and reconstructing slum areas and of providing housing for persons of low income in the authority's area of operation.

(b) Housing authorities may cooperate in the exercise of a power conferred by this chapter to finance, plan, undertake, construct, or operate a housing project in the area of operation of one or more of the cooperating authorities. (V.A.C.S. Art. 1269k, Secs. 8 (part), 11.)

Sec. 392.060. HEARINGS. Acting through one or more commissioners or other persons designated by the authority, an authority may:

- (1) conduct examinations and investigations and hear testimony and accept evidence under oath at a public or private hearing on a matter material for the authority's information;

(2) administer oaths, issue a subpoena requiring the attendance of a witness or the production of books and papers, and issue a commission for the examination of a witness who is outside the state, unable to attend the hearing, or excused from attendance; and

(3) make its findings and recommendations with regard to a building or property where conditions exist that are dangerous to the public health, morals, safety, or welfare available to appropriate agencies, including agencies charged with the duty of abating, or requiring the correction of, nuisances or similar conditions or of demolishing unsafe or unsanitary structures within the authority's area of operation. (V.A.C.S. Art. 1269k, Sec. 8, (part).)

Sec. 392.061. EMINENT DOMAIN. (a) An authority may acquire an interest in real property, including a fee simple interest, by the exercise of the power of eminent domain after it adopts a resolution describing the real property and declaring the acquisition of the property necessary for the purposes of the authority under this chapter.

(b) An authority may exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, or by other applicable statutory provisions for the exercise of the power of eminent domain.

(c) An authority may exercise the power of eminent domain to acquire property already devoted to public use, but the authority may not acquire real property belonging to a municipality, a county, another political subdivision, or the state without the consent of the governmental entity. (V.A.C.S. Art. 1269k, Secs. 8 (part), 12.)

Sec. 392.062. REPORTS. (a) At least once a year, each housing authority shall file a report of its activities for the preceding year and make recommendations for additional legislation or other action it considers necessary to carry out the purposes of this chapter.

(b) A municipal housing authority shall file the report with the clerk of the municipality. A county housing authority shall file the report with the county clerk. A regional housing authority shall file the report with the county clerks of the counties in the authority. (V.A.C.S. Art. 1269k, Sec. 23.)

Sec. 392.063. PROJECTS FOR FARMERS OF LOW INCOME. (a) A county or regional housing authority may borrow money, accept grants, and exercise its powers to provide housing for farmers of low income.

(b) As the authority considers necessary to assure the achievement of the objectives of this chapter, in connection with a project for farmers of low income an authority may enter into a lease or purchase agreement, accept a conveyance, and rent or sell housing that is part of the project to or for farmers of low income. The lease, agreement, or conveyance may include covenants that the authority considers appropriate regarding the housing and the land described in the instrument. If the authority considers it necessary and on the stipulation of the parties, the covenants run with the land.

(c) The owner of a farm operated, or worked on, by farmers of low income in need of safe and sanitary housing may file an application with a county or regional housing authority requesting that the authority provide safe and sanitary housing for the farmers. The housing authority shall consider the applications in connection with the formulation of projects or programs to provide housing for farmers of low income.

(d) A county or regional housing authority is not subject to the limitations in Subsections (c) and (d) of Section 392.055 in respect to housing projects for farmers of low income.

(e) This section does not limit other powers of a housing authority. (V.A.C.S. Art. 1269k, Secs. 23a (part), 23e (part), 23f, 23g.)

Sec. 392.064. CORPORATE NAME OF REGIONAL HOUSING AUTHORITY. A regional housing authority may select an appropriate corporate name. (V.A.C.S. Art. 1269k, Sec. 23e (part).)

Sec. 392.065. MISCELLANEOUS POWERS. An authority may:

- (1) sue and be sued;
- (2) have a seal and change the seal at will;

- (3) have perpetual succession;
- (4) make and execute contracts and other instruments that are necessary or convenient to the exercise of the authority's powers; and
- (5) make, amend, and repeal bylaws and rules that are consistent with this chapter to implement the authority's powers and purposes. (V.A.C.S. Art. 1269k, Sec. 8 (part).)

[Sections 392.066–392.080 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 392.081. **AUTHORITY TO ISSUE BONDS.** (a) An authority may, by resolution, authorize the issuance of bonds in one or more series for a corporate purpose of the authority.

(b) An authority may issue refunding bonds to repay or retire bonds that the authority previously issued.

(c) An authority may determine the type of bond to issue, including bonds on which the principal and interest are payable:

(1) exclusively from the income and revenues of the housing project financed by the proceeds of the bonds or financed by those proceeds and a federal grant in aid of the project;

(2) exclusively from the income and revenue of designated housing projects regardless of whether the projects are financed by the bonds; or

(3) from general revenue of the housing authority.

(d) Bonds issued by an authority may be additionally secured by a pledge of revenue or by the mortgage of a housing project or other property of the housing authority.

(e) Bonds issued by an authority are not a debt for the purposes of a constitutional or statutory debt limitation or restriction. (V.A.C.S. Art. 1269k, Secs. 14 (part), 15 (part).)

Sec. 392.082. **FORM OF BONDS.** (a) The resolution authorizing bonds of an authority, or a trust indenture or mortgage of the authority that secures the bonds, may provide:

(1) the date to appear on the bonds;

(2) the maturity date of the bonds;

(3) the interest rate of the bonds;

(4) the denomination of the bonds;

(5) the form of the bonds, either coupon or registered;

(6) conversion or registration privileges of the bonds;

(7) the rank and priority of the bonds;

(8) the manner of execution of the bonds;

(9) the medium and place of payment of the bonds; and

(10) the terms of redemption of the bonds, with or without premium.

(b) The signatures of commissioners or officers on the bonds are valid and sufficient for all purposes regardless of whether the commissioners or officers are in office or have left office at the time the bonds are delivered.

(c) In a proceeding involving the validity or enforceability of a bond of an authority, or the security for the bond, a bond that recites in substance that it is issued by the authority to aid in financing a housing project to provide housing for persons of low income shall be conclusively considered to be issued for that purpose and the project shall be conclusively considered to be planned, located, and constructed in accordance with this chapter. (V.A.C.S. Art. 1269k, Sec. 15 (part).)

Sec. 392.083. **SALE OF BONDS.** (a) Bonds issued by an authority may be sold only at a public sale after notice is published in accordance with this section, or at a private sale to the federal government. Bonds may not be sold at less than par value.

(b) Notice of a public sale of bonds of a housing authority must be published before the fifth day before the date of the sale in a newspaper with general circulation within the

boundaries of the authority and in a financial newspaper published in New York, New York. (V.A.C.S. Art. 1269k, Sec. 15 (part).)

Sec. 392.084. **NEGOTIABILITY OF BONDS.** A bond issued under this chapter is fully negotiable. (V.A.C.S. Art. 1269k, Sec. 15 (part).)

Sec. 392.085. **LIABILITY ON BONDS AND OTHER OBLIGATIONS.** (a) A commissioner of an authority or a person who executes the bonds for an authority is not liable personally on the bonds due to the issuance of the bonds.

(b) The bonds and other obligations of an authority are not a debt of a municipality, a county, another political subdivision of the state, or the state, and a municipality, a county, another political subdivision, or the state is not liable on the bonds.

(c) Bonds issued by an authority are payable from only the funds and property of the authority issuing the bonds.

(d) Bonds and other obligations of an authority must state on their face that they are not debts of a municipality, a county, another political subdivision, or the state; that a municipality, a county, another political subdivision, or the state is not liable on the bonds; and that the bonds are payable from only the funds and property of the authority issuing the bonds. (V.A.C.S. Art. 1269k, Sec. 14 (part).)

Sec. 392.086. **TAX EXEMPTION.** Bonds of an authority are issued for an essential public and governmental purpose and are public instrumentalities. The bonds, interest on the bonds, and income from the bonds are exempt from taxes. (V.A.C.S. Art. 1269k, Sec. 14 (part).)

Sec. 392.087. **PLEDGES, MORTGAGES, AND COVENANTS TO SECURE BONDS OR LEASE OBLIGATIONS.** In connection with the issuance of bonds or the incurring of obligations under a lease, an authority may make a covenant or take an action that is necessary, convenient, or desirable to secure the payment of the bonds or obligations or to make the bonds more marketable, including:

(1) pledging of gross or net rent, fees, or revenues to which it has a right or may have a right in the future;

(2) mortgaging real or personal property that the authority owns or later acquires;

(3) providing terms and conditions for the redemption of bonds;

(4) vesting in a trustee or the holder of the bonds, or a part of the bonds, the right to enforce the payment of the bonds or a covenant securing or relating to the bonds;

(5) vesting in a trustee, in the event of a default by the authority, the right to take possession of, and to use, operate, and manage, a housing project, or part of a housing project; to collect the rents and revenues of the housing project; and to dispose of that money in accordance with the agreement of the authority with the trustee;

(6) providing for the powers and duties of a trustee; limiting the liabilities of the trustee; and providing the terms and conditions on which the trustee or a holder of bonds, or a part of the bonds, may enforce a covenant or right securing or relating to the bonds;

(7) prescribing the procedure, if any, by which the terms of a contract with bond holders may be amended or abrogated; the amount of bonds that may not be amended or abrogated without consent of the holder; and the manner in which the consent may be given;

(8) making a covenant against:

(A) pledging rents, fees, and revenues; mortgaging real or personal property that the authority owns or may later acquire; or permitting a lien on its revenues or property; or

(B) extending the time for payment of the bonds or interest on the bonds or the time to redeem the bonds;

(9) making a covenant regarding:

(A) limitations on the authority's right to sell, lease, or dispose of in any manner a housing project, or part of a housing project;

- (B) debts or obligations incurred by the authority;
- (C) bonds to be issued, the issuance of the bonds in escrow or otherwise, and the use and disposition of the proceeds from the bonds;
- (D) the rents and fees charged in operating a housing project, subject to the limitations of this chapter; the amount to be raised each year, or other period, by rents, fees, and other revenues; and the use and disposition of the rents, fees, and other revenues;
- (E) the use, maintenance, or replacement of the authority's real or personal property;
- (F) insurance carried on the authority's real or personal property and the use and disposition of insurance money; or
- (G) the rights, liabilities, powers, and duties arising on a breach by the authority of a covenant, condition, or obligation; the events of default and terms and conditions on which a bond or obligation is, or may be declared, due before maturity; and the terms and conditions on which the declaration and its consequences may be waived; or
- (10) making a covenant to:
 - (A) replace lost, destroyed, or mutilated bonds; or
 - (B) create or authorize the creation of special funds for money held for construction or operation costs, debt service, reserves, or other purposes and to provide for the use and disposition of the money held in those funds. (V.A.C.S. Art. 1269k, Sec. 16.)

Sec. 392.088. **CERTIFICATION OF ATTORNEY GENERAL.** After the proceedings for the issuance of bonds are complete, an authority may submit to the attorney general the bonds to be issued and the record of the proceedings. The attorney general shall examine and pass on the validity of the bonds and the regularity of the proceedings in connection with the bonds. If the proceedings conform to this chapter and are otherwise regular in form and if the bonds, on delivery and receipt of payment, will be binding and legal obligations of the authority that are enforceable according to their terms, the attorney general shall certify in substance on the back of the bonds that the bonds are issued in accordance with the constitution and the laws of the state. (V.A.C.S. Art. 1269k, Sec. 17.)

Sec. 392.089. **PURCHASE OF BONDS BY AUTHORITY.** An authority may purchase its bonds at a price not greater than the principal and accrued interest of the bonds. Bonds purchased by an authority shall be canceled. (V.A.C.S. Art. 1269k, Sec. 8 (part).)

Sec. 392.090. **COVENANT OF REGIONAL HOUSING AUTHORITY REGARDING AREA OF OPERATION.** In connection with the issuance of bonds or the incurring of other obligations, a regional housing authority may make a covenant regarding limitations on its right to adopt resolutions relating to the increase of its area of operation. (V.A.C.S. Art. 1269k, Sec. 23c(h).)

[Sections 392.091–392.100 reserved for expansion]

SUBCHAPTER F. REMEDIES

Sec. 392.101. **REMEDIES OF AN OBLIGEE OF THE AUTHORITY.** (a) Subject to contractual restrictions binding on the obligee, an obligee of an authority may compel, by mandamus or other proceeding at law or in equity, the performance by the authority and the commissioners, officers, agents, or employees of the authority of a term, provision, or covenant in a contract of the authority with or for the benefit of the obligee and of the duties of the authority under this chapter.

(b) Subject to contractual restrictions binding on the obligee, an obligee may obtain an injunction, by a proceeding in equity, of an unlawful act or of a violation of a right of the obligee by the authority. (V.A.C.S. Art. 1269k, Sec. 18.)

Sec. 392.102. **OPTIONAL REMEDIES OF AN OBLIGEE.** (a) By resolution, trust indenture, mortgage, lease, or other contract, an authority may confer on an obligee

holding or representing a specified amount in bonds or holding a lease the right on default to:

- (1) the possession of a housing project or part of a housing project;
- (2) the appointment of a receiver of a housing project or part of a housing project and of the rents and profits of the project; or
- (3) require the authority and the commissioners of the authority to account as if the authority and commissioners were the trustees of an express trust.

(b) The resolution or other instrument conferring a right under Subsection (a) must define the term "default." The obligee may enforce the right in a proceeding in a court of competent jurisdiction.

(c) A receiver appointed in a proceeding brought under this section may take possession of, operate, maintain, and collect and receive the fees, rents, revenues, or other charges of the project or part of the project. The receiver shall keep the money in one or more separate accounts and apply the money in accordance with the obligations of the authority as the court directs. (V.A.C.S. Art. 1269k, Sec. 19.)

Sec. 392.103. EXEMPTION OF PROPERTY FROM EXECUTION SALE. (a) The real property of an authority is exempt from levy and sale by execution. An execution or other judicial process may not issue against the property, and a judgment against the authority may not be a charge or lien on the property.

(b) Subsection (a) does not limit the right of an obligee to foreclose or otherwise enforce a mortgage of an authority or to pursue a remedy for the enforcement of a pledge or lien given by the authority on its rents, fees, or revenues. (V.A.C.S. Art. 1269k, Sec. 20.)

Sec. 392.104. EFFECT OF CERTAIN PROVISIONS ON OBLIGEE RIGHTS CONFERRED BY AUTHORITY. Sections 392.004 and 392.055 do not limit the power of an authority to vest in an obligee the right, in the event of default by the authority, to take possession of a housing project, obtain the appointment of a receiver for the project, or acquire title to the project through foreclosure, free from the restrictions imposed by those sections. (V.A.C.S. Art. 1269k, Sec. 10 (part).)

CHAPTER 393. HOUSING COOPERATION AMONG MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

- Sec. 393.001. SHORT TITLE
- Sec. 393.002. LEGISLATIVE FINDINGS; PURPOSE
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- Sec. 393.007. PAYMENT CONTRACTS
- Sec. 393.008. LOANS TO HOUSING AUTHORITY
- Sec. 393.009. POWERS AUTHORIZED BY RESOLUTION
- Sec. 393.010. NOTICE OF PROPOSED ACTION; PETITION; ELECTION

CHAPTER 393. HOUSING COOPERATION AMONG MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 393.001. SHORT TITLE. This chapter may be cited as the Housing Cooperation Law. (V.A.C.S. Art. 1269l, Sec. 1.)

Sec. 393.002. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature has found in the Housing Authorities Law (Chapter 392) that:

- (1) unsafe and unsanitary housing conditions exist in this state for persons of low income;
- (2) there is a shortage of safe and sanitary dwellings for those persons;

(3) those conditions require excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and

(4) the public interest requires the remedying of those conditions.

(b) The legislature finds and declares that:

(1) the assistance provided under this chapter to remedy the conditions described in the Housing Authorities Law constitutes a public purpose and an essential governmental function for which public money may be spent and other aid given;

(2) it is a proper public purpose for a public body to aid a housing authority that operates within the boundaries or jurisdiction of the public body or to aid a housing project within its boundaries or jurisdiction because the public body derives immediate benefits and advantages from the authority or project; and

(3) this chapter is necessary in the public interest. (V.A.C.S. Art. 1269l, Sec. 2.)
Sec. 393.003. DEFINITIONS. In this chapter:

(1) "Federal government" includes the United States, the United States Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States.

(2) "Governing body" means the council, commissioners court, board, or other body that is in charge of the fiscal affairs of a public body.

(3) "Housing authority" means an authority created under the Housing Authorities Law (Chapter 392).

(4) "Housing project" means a work or other undertaking of a housing authority in accordance with the Housing Authorities Law or any similar work or other undertaking of the federal government.

(5) "Public body" means a municipality or municipal corporation, county, commission, district, authority, or other subdivision or public body of the state. (V.A.C.S. Art. 1269l, Sec. 3.)

Sec. 393.004. POWERS OF PUBLIC BODY RELATING TO HOUSING PROJECTS. To aid and cooperate in the planning, undertaking, construction, or operation of a housing project located within its jurisdiction, a public body may, on terms established by the public body:

(1) dedicate, sell, convey, or lease any of its property to a housing authority or to the federal government;

(2) provide that parks, playgrounds, other recreational facilities, community facilities, educational facilities, water facilities, sewer facilities, or drainage facilities, or other works that it has the power to undertake, be furnished adjacent to or in connection with a housing project;

(3) furnish, dedicate, close, pave, install, grade, or plan streets, roads, alleys, sidewalks, or other places that it has the power to undertake;

(4) plan or zone any part of the public body and, in the case of a municipality, change its map;

(5) make exceptions to building regulations or ordinances;

(6) enter agreements for any period with a housing authority or the federal government relating to action to be taken by the public body under the powers granted by this chapter;

(7) enter agreements relating to the exercise of power by the public body relating to the repair, elimination, or closing of unsafe, unsanitary, or unfit dwellings;

(8) provide for the furnishing of services to a housing authority of the type the public body has power to furnish;

(9) purchase or invest in bonds issued by a housing authority;

(10) exercise the rights of a bondholder in relation to any bonds purchased under Subdivision (9); or

(11) take other action necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of a housing project. (V.A.C.S. Art. 1269I, Secs. 4 (part), 4-a.)

Sec. 393.005. RESTRICTION ON CERTAIN HOUSING PROJECT CHANGES. A public body may not require changes to be made with respect to a housing project that a housing authority has acquired or taken over from the federal government and that the housing authority by resolution has found and declared to have been constructed in a manner that promotes the public interest and affords the necessary safety, sanitation, and other protection. The public body may not require changes to be made in the manner of the construction of the project and may not take other action relating to that construction. (V.A.C.S. Art. 1269I, Sec. 4 (part).)

Sec. 393.006. PAYMENT OF EXPENSES; CONVEYANCE POWERS. (a) A public body may incur the entire expense of any public improvement made by the public body in exercising powers under this chapter.

(b) A public body may sell, convey, lease, or make an agreement under this chapter without appraisal, public notice, advertisement, or public bidding. (V.A.C.S. Art. 1269I, Sec. 4 (part).)

Sec. 393.007. PAYMENT CONTRACTS. (a) In connection with a housing project located wholly or partly within its jurisdiction, a public body may contract with a housing authority or with the federal government relating to any amounts that the housing authority or the federal government agrees to pay to the public body during the contract period for the improvements, services, and facilities furnished by the public body for the benefit of the housing project. The amount of those payments may not exceed the estimated cost to the public body of the improvements, services, or facilities.

(b) The absence of a contract for those payments does not relieve the public body from the duty to furnish for the benefit of the housing project the customary improvements and any services and facilities that the public body usually furnishes without a service fee. (V.A.C.S. Art. 1269I, Sec. 5.)

Sec. 393.008. LOANS TO HOUSING AUTHORITY. (a) When a housing authority that is created for a municipality becomes operative, the governing body of the municipality shall immediately estimate the amount necessary for the administrative expenses and overhead of the housing authority during its first year of operation. The governing body shall appropriate that amount to the authority from money in the municipal treasury that is not appropriated for other purposes. The governing body shall pay that amount to the housing authority as a loan.

(b) Any municipality located wholly or partly within the area of operation of a housing authority may lend or agree to lend money to the housing authority at any time.

(c) The housing authority shall repay loans made to it under this section when it has money available for repayment. (V.A.C.S. Art. 1269I, Sec. 6.)

Sec. 393.009. POWERS AUTHORIZED BY RESOLUTION. (a) The exercise by a public body of the powers granted under this chapter may be authorized by a resolution of its governing body adopted by a majority of the members of the governing body who are present at a meeting. The resolution may be adopted at the meeting at which it is introduced, and the resolution takes effect immediately. However, the exercise of the powers is subject to the conditions prescribed by Section 393.010.

(b) The resolution is not required to be laid over, published, or posted. (V.A.C.S. Art. 1269I, Sec. 7.)

Sec. 393.010. NOTICE OF PROPOSED ACTION; PETITION; ELECTION. (a) An action authorized by this chapter may not be consummated until the governing body of the public body gives notice of its intention to enter into a cooperation agreement with a housing authority. A copy of the notice must be published at least twice in the officially designated newspaper, if any, of the public body. The notice must state that at the expiration of 60 days the governing body will consider the question of whether to enter into a cooperation agreement.

(b) If, during the 60-day period, a petition signed by at least 2,000 of the qualified voters of the public body or by at least five percent of the qualified voters of the public

body is presented to the governing body requesting that an election be held on the question, and if the petition is determined to have been signed by the requisite number of qualified voters, the governing body shall order an election to be held in the public body on the question. Two weeks' notice of the election must be given in the manner required by law for elections on the question of issuing tax-supported bonds. If a majority of the votes received in the election favor the cooperation agreement, the governing body shall execute the agreement.

(c) The governing body may also order such an election on its own motion. If a majority of the votes received in the election favor the cooperation agreement, the governing body may execute the agreement.

(d) If the governing body fails or refuses to give notice of its intention to enter a cooperation agreement with a housing authority or fails or refuses to submit the question to an election as provided by Subsection (c), then, on filing of a petition demanding an election and signed by at least 2,000 of the qualified voters of the public body or by at least five percent of the qualified voters of the public body, the governing body shall order an election to be held in the public body for the purpose of submitting a proposition for the approval of the cooperation agreement. If a majority of the votes received in the election favor the cooperation agreement, the governing body may execute the cooperation agreement.

(e) The laws relating to elections for the issuance of municipal or county bonds as prescribed by Chapters 1 and 2, Title 22, Revised Statutes, apply to an election covered by this section unless those laws are inconsistent with this section or are superseded by the Election Code. (V.A.C.S. Art. 12691, Sec. 7-a.)

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CHAPTER 394. HOUSING FINANCE CORPORATIONS IN
MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 394.001. **SHORT TITLE.** This chapter may be cited as the Texas Housing Finance Corporations Act. (V.A.C.S. Art. 12691-7, Sec. 1, Subsec. A (part).)

Sec. 394.002. **PURPOSE; LEGISLATIVE FINDINGS.** (a) The purpose of this chapter is to provide a means to finance the cost of residential ownership and development that will provide decent, safe, and sanitary housing at affordable prices for residents of local governments.

(b) The legislature finds that residential ownership and development:

- (1) promotes the public health, safety, morals, and welfare;
- (2) relieves conditions of unemployment and encourages the increase of industry, commercial activity, and other economic development to reduce the adverse effects of unemployment;
- (3) provides for efficient and well-planned urban growth and development, including the elimination and prevention of potential urban blight and the proper coordination of industrial facilities with public services, mass transportation, and residential development;
- (4) assists persons of low and moderate income to acquire and own decent, safe, sanitary, and affordable housing; and
- (5) preserves and increases the ad valorem tax bases of local governments.

(c) The legislature finds that the accomplishment of the results described by Subsection (b) is a public purpose and function and lessens the burdens of government. The legislature further finds that:

- (1) the creation of a housing finance corporation is for the benefit of the people of the state, improves the public health and welfare, and promotes the economy;
- (2) those purposes are public purposes; and
- (3) the corporation, as a public instrumentality and nonprofit corporation, performs an essential governmental function on behalf of and for the benefit of the general public, the local government, and this state.

(d) It is the intent of the legislature to authorize local governments to create and use public nonprofit corporations to issue obligations to accomplish the results described by Subsection (b). (V.A.C.S. Art. 12691-7, Secs. 3 (part), 21 (part).)

Sec. 394.003. **DEFINITIONS.** In this chapter:

- (1) "Bond" means a revenue bond authorized under this chapter and includes a note and any other limited obligation payable as provided by this chapter.
- (2) "Development cost" means the sum total of reasonable or necessary costs incidental to the provision, acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, and extension of a residential development. The term includes:
 - (A) the cost of studies, surveys, plans, and specifications;
 - (B) underwriting fees;
 - (C) the cost of architectural, engineering, financial advisory, mortgage banking, and administrative services;
 - (D) the cost of legal, accounting, marketing, and other special services that relate to residential development or are incurred in connection with the issuance and sale of bonds;
 - (E) necessary application fees and other fees paid to federal, state, and local government agencies for approvals required for construction, for assisted financing, or for other purposes;

(F) financing, acquisition, demolition, construction, equipment, and site development costs for new and rehabilitated buildings;

(G) relocation costs for utilities, public ways, and parks;

(H) construction costs for recreational, cultural, and commercial facilities;

(I) rehabilitation, reconstruction, repair, or remodeling costs for existing buildings and all other necessary and incidental expenses, including trustee and rating agency fees and an initial bond and interest reserve together with interest on bonds issued to finance a residential development to a date 12 months after the estimated date of completion;

(J) premiums for mortgage insurance or other insurance with respect to bonds; and

(K) other expenses considered appropriate by a housing finance corporation to carry out the purposes of this chapter.

(3) "Economically depressed or blighted area" means:

(A) an area determined by the issuer to be a qualified census tract or an area of chronic economic distress under Section 143, Internal Revenue Code of 1986 (26 U.S.C.A. Section 143);

(B) an area established within a municipality that has a substantial number of substandard, slum, deteriorated, or deteriorating structures, that suffers from a high relative rate of unemployment; or

(C) an area designed and included in a tax increment district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes).

(4) "Elderly person" means a person who is 60 years of age or older.

(5) "Federally assisted new community" means an area:

(A) that receives federal assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C.A. Section 1749aa et seq.); and

(B) a part of which has received grants under Section 107(a)(1), Housing and Community Development Act of 1974 (42 U.S.C.A. Section 5307(a)(1)).

(6) "Home" means real property and improvements on that property consisting of not more than four connected dwelling units, which may include condominium units, located within a local government and owned by one mortgagor who occupies or intends to occupy one of the units.

(7) "Home mortgage" means an interest-bearing loan to a mortgagor, or a participation in such a loan, that is:

(A) made to purchase, improve, or construct a home;

(B) evidenced by a promissory note;

(C) secured by a mortgage, mortgage deed, deed of trust, or other instrument that constitutes a lien on the home; and

(D) except as provided by Section 394.906, guaranteed or insured by the United States, an instrumentality of the United States, or a private mortgage insurance or surety company to the extent the loan amount exceeds 80 percent of the lesser of the appraised value of the home at the time the loan is made or the sale price of the home.

(8) "Housing finance corporation" means a public, nonprofit corporation organized under this chapter.

(9) "Lending institution" means a bank, trust company, savings bank, national banking association, savings and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution or government agency that customarily provides services or assistance in mortgage financing on single family residential housing or multifamily residential housing located in the local government. The term includes a holding company for such an institution.

(10) "Local government" means any municipality or county.

(11) "Mortgagor" means a person of low or moderate income whose adjusted gross aggregate income, together with the adjusted gross aggregate income of all persons who intend to reside with that person in one dwelling unit, did not, for the preceding tax year, exceed the maximum amount established as constituting moderate income by the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds. In an economically depressed or blighted area or in a federally assisted new community located within a home-rule municipality, the term includes:

(A) a person whose adjusted gross aggregate income exceeds the amount constituting moderate income if at least 90 percent of the total mortgage amount available under a home mortgage revenue bond issue is designated for persons of low or moderate income; or

(B) a person permitted to be a mortgagor under Section 143, Internal Revenue Code of 1986 (26 U.S.C.A. Section 143), as it applies to that area or community.

(12) "Person" means, if used in reference to a mortgagor or owner of a home, a natural person or a trust for the benefit of a natural person.

(13) "Residential development" means the acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, or extension of any of the following items or any combination of the following items for the purpose of providing decent, safe, and sanitary housing and nonhousing facilities that are an integral part of or are functionally related to the housing:

(A) land, an interest in land, a building or other structure, facility, system, fixture, improvement, addition, appurtenance, or machinery or other equipment;

(B) real or personal property considered necessary in connection with an item described by Paragraph (A); or

(C) real or personal property or improvements functionally related and subordinate to an item described by Paragraph (A). (V.A.C.S. Art. 12691-7, Secs. 2(1), (3), (5), (6) (part), (7), (8), (10) (part), (11) (part), (12)-(14), (15) (part), (16) (part).)

Sec. 394.004. APPLICATION OF CHAPTER TO CERTAIN RESIDENTIAL DEVELOPMENTS. This chapter applies only to a residential development at least 90 percent of which is for use by or is intended to be occupied by persons of low and moderate income whose adjusted gross income, together with the adjusted gross income of all persons who intend to reside with those persons in one dwelling unit, did not for the preceding tax year exceed the maximum amount constituting moderate income under the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds. (V.A.C.S. Art. 12691-7, Sec. 2(16) (part).)

Sec. 394.005. APPLICATION OF CHAPTER TO PROPERTY IN CERTAIN MUNICIPALITIES. This chapter does not apply to property located within a municipality with more than 20,000 inhabitants as determined by the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds, unless the governing body of the municipality approves the application of the chapter to that property. (V.A.C.S. Art. 12691-7, Sec. 2(10) (part).)

[Sections 394.006-394.010 reserved for expansion]

SUBCHAPTER B. INCORPORATION OF HOUSING FINANCE CORPORATIONS

Sec. 394.011. APPLICATION FOR INCORPORATION. (a) The governing body of a local government shall consider a written application for the incorporation of a housing finance corporation filed with the governing body by at least three residents of the local government who are citizens of this state and at least 18 years of age.

(b) If the governing body by resolution determines that the formation of the housing finance corporation is wise, expedient, necessary, or advisable and approves the form of the proposed articles of incorporation of the corporation, the articles may be filed as provided by this chapter. A corporation may not be formed unless the application is filed with the governing body and the governing body adopts the resolution.

(c) The approval of the articles of incorporation of one housing finance corporation does not preclude the approval by the governing body of the articles of incorporation of additional corporations that have names or designations sufficient to distinguish them from previously created corporations. The governing body may not permit the incorporation on its behalf of more than one corporation that has the power to make or acquire home mortgages, or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments. (V.A.C.S. Art. 12691-7, Sec. 4, Subsec. A.)

Sec. 394.012. APPLICATION FOR INCORPORATION OF, AND OTHER SPECIAL PROVISIONS FOR, JOINT CORPORATION. (a) The governing bodies of more than one local government may consider a written application for the incorporation of a joint housing finance corporation to act on behalf of the local governments filed by at least three residents of each sponsoring local government who are citizens of this state and at least 18 years of age.

(b) If each governing body by resolution determines that the formation of the joint housing finance corporation is wise, expedient, necessary, or advisable and approves the form of the proposed articles of incorporation of the joint corporation, the articles may be filed as provided by this chapter. The joint corporation may not be formed unless the application is filed with the governing body of each sponsoring local government and each governing body adopts the resolution.

(c) The approval of the articles of incorporation of the joint housing finance corporation does not preclude the approval by the governing body of the articles of incorporation of additional corporations that have names or designations sufficient to distinguish them from previously created corporations. A governing body that creates the joint corporation may not later create a corporation that has the power to make home mortgages or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments.

(d) Each incorporator or director of the joint housing finance corporation must reside in a sponsoring local government. The initial directors of the joint corporation shall be appointed by all the sponsoring local governments. Succeeding directors shall be appointed by one or more of the sponsoring local governments as provided in the articles of incorporation or the bylaws of the joint corporation.

(e) The sponsoring local governments of the joint housing finance corporation are considered to be one local government for the purposes of this chapter. If the action of the governing body of a local government is required, this chapter requires the action to be taken by the governing body of each sponsoring local government of the joint corporation.

(f) The joint housing finance corporation has all the powers granted to a housing finance corporation under this chapter. The joint corporation acts on behalf of each of the sponsoring local governments as provided by the articles of incorporation.

(g) The net earnings of the joint housing finance corporation and funds and properties of the joint housing finance corporation on dissolution shall be disbursed to the sponsoring local governments as provided by the articles of incorporation.

(h) The joint housing finance corporation may not operate in more than one state planning region. (V.A.C.S. Art. 12691-7, Sec. 4, Subsec. B.)

Sec. 394.013. INCORPORATORS. Three or more residents of the local government who are at least 18 years of age may act as incorporators of the housing finance corporation by signing, verifying, and delivering in duplicate to the secretary of state the articles of incorporation for the corporation. An incorporator may be a member of the governing body, an officer, or an employee of the local government. (V.A.C.S. Art. 12691-7, Sec. 6.)

Sec. 394.014. ARTICLES OF INCORPORATION. (a) The articles of incorporation of the housing finance corporation must contain:

- (1) the name of the corporation;
- (2) a statement that the corporation is a public, nonprofit corporation;

- (3) the period of duration, which may be perpetual;
- (4) a statement that the corporation is organized solely to carry out the purposes of this chapter;
- (5) a statement that the corporation is to have no members;
- (6) any provision not inconsistent with law, including any provision required or permitted under this chapter to be included in the bylaws, for the regulation of the internal affairs of the corporation;
- (7) the street address of the corporation's initial registered office, which must be located in the local government, and the name of its initial registered agent at that address;
- (8) the number of directors constituting the initial board of directors and the names and addresses of those directors, with a statement that each of them resides in the local government;
- (9) the name and street address of each incorporator with a statement that each of them resides in the local government; and
- (10) a statement that a resolution approving the form of the articles of incorporation has been adopted by the governing body of the local government and the date of the adoption of the resolution.

(b) A housing finance corporation may exercise any power prescribed by this chapter regardless of whether the power is stated in its articles of incorporation. The articles may prohibit the exercise of any power prescribed by this chapter.

(c) Unless the articles of incorporation provide that a change in the number of directors may be made only by amendment to the articles, a change in the number of directors may be made by an amendment to the bylaws. In all other cases if a provision of the articles is inconsistent with the bylaws, the articles provision controls. (V.A.C.S. Art. 1269l-7, Sec. 5.)

Sec. 394.015. FILING OF ARTICLES OF INCORPORATION; ISSUANCE OF CERTIFICATE OF INCORPORATION. (a) Duplicate originals of the articles of incorporation must be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to this chapter, the secretary shall, when a \$25 fee is paid:

- (1) endorse on each duplicate original the word "Filed" and the date of the filing;
- (2) file one of the duplicate originals in the office of the secretary of state; and
- (3) issue a certificate of incorporation, to which the secretary shall affix the other duplicate original.

(b) The secretary of state shall deliver the certificate of incorporation, with the affixed duplicate original, to the incorporators or their representatives.

(c) On the issuance of the certificate of incorporation, corporate existence begins. The certificate of incorporation is conclusive evidence that all conditions precedent required to be performed by the local government and the incorporators have been met and that the housing finance corporation is properly incorporated under this chapter.

(d) The housing finance corporation constitutes a public instrumentality and a nonprofit corporation under the name stated in the articles of incorporation. The corporation does not constitute a municipality, county, or other political corporation or subdivision of this state. The corporation may issue bonds and carry out the public purposes for which it is incorporated on behalf of and for the benefit of the general public, the local government, and this state.

(e) A copy of the articles of incorporation shall be delivered to the Texas Department on Aging. (V.A.C.S. Art. 1269l-7, Sec. 7.)

Sec. 394.016. AMENDMENT OF ARTICLES OF INCORPORATION. (a) The articles of incorporation may be amended at any time in the manner provided by this section.

(b) The board of directors of the housing finance corporation may file a written application with the governing body of the local government requesting permission to amend the articles and specifying the proposed amendment. The governing body shall

consider the application. If the governing body by resolution determines that the making of an amendment is wise, expedient, necessary, or advisable, authorizes the amendment, and approves the form of the amendment the board of directors may amend the articles by adopting the amendment at a meeting and delivering articles of amendment to the secretary of state.

(c) At a meeting, the governing body in its sole discretion may amend the articles of incorporation to change the structure, organization, programs, or activities of the housing finance corporation, including the power to terminate the corporation, subject to any limitation on the impairment of contracts. The governing body shall deliver the articles of amendment to the secretary of state.

(d) The articles of amendment must be executed in duplicate. The president or vice-president of the housing finance corporation and the secretary or assistant secretary of the corporation must execute articles of amendment adopted by the board of directors. The presiding officer of the governing body of the local government and the local government's secretary or clerk must execute articles of amendment adopted by the governing body. The articles of amendment must be verified by one of the officers signing the articles. The articles of amendment must contain:

- (1) the name of the corporation;
- (2) if the amendment alters an original or amended provision of the articles of incorporation, an identification by reference to or description of the altered provision and a statement of the text as amended;
- (3) if the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of the added provision; and
- (4) the date of the meeting of the board of directors or the governing body at which the amendment was adopted and a statement that the amendment received a majority vote of the corporation's directors or the governing body's members in office. (V.A.C. S. Art. 1269I-7, Sec. 8.)

Sec. 394.017. FILING OF ARTICLES OF AMENDMENT; ISSUANCE OF CERTIFICATE OF AMENDMENT. (a) Duplicate originals of the articles of amendment must be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, the secretary shall, when a \$25 fee is paid:

- (1) endorse on each duplicate original the word "Filed" and the date of the filing;
- (2) file one of the duplicate originals in the office of the secretary of state; and
- (3) issue a certificate of amendment, to which the secretary shall affix the other duplicate original.

(b) The secretary of state shall deliver the certificate of amendment, with the affixed duplicate original, to the housing finance corporation or its representative.

(c) On the issuance of the certificate of amendment, the amendment takes effect and the articles of incorporation are amended accordingly.

(d) An amendment does not affect an existing cause of action or any pending action to which the housing finance corporation is a party, or the existing rights of persons other than members. If the amendment changes the housing finance corporation's name, the change does not abate a suit brought by or against the corporation under its former name. (V.A.C.S. Art. 1269I-7, Sec. 9.)

[Sections 394.018–394.020 reserved for expansion]

SUBCHAPTER C. CORPORATE ADMINISTRATION AND OPERATION

Sec. 394.021. BOARD OF DIRECTORS. (a) A housing finance corporation must have a board of directors in which all the powers of the corporation are vested. The board may consist of any number of directors, all of whom must be residents of the local government. A director may be a member of the governing body, an officer, or an employee of the local government.

(b) Members of the initial board of directors hold office for the period specified in the articles of incorporation. After the initial directors, the governing body of the local

government shall appoint directors in the manner and for the terms provided by the articles of incorporation or the bylaws. Directors may be divided into classes, and the terms of office of the various classes may differ.

(c) Each director shall hold office for the term for which the director is elected or appointed and until the director's successor is elected or appointed and has qualified. A director may be removed from office under any removal procedure provided by the articles of incorporation or the bylaws. The governing body shall fill any vacancy in the board of directors by appointment in the manner provided by the articles of incorporation or the bylaws.

(d) A majority of the directors constitutes a quorum. The directors may take action by a majority vote when a quorum is present. Board meetings may be held inside or outside this state. A regular meeting may be held with or without notice as provided by the bylaws. A special meeting may be held on notice as provided by the bylaws.

(e) The officers of a housing finance corporation consist of a president, one or more vice-presidents, a secretary, a treasurer, and other officers and assistant officers as considered necessary. Each officer shall be elected or appointed in the manner and for the term provided by the articles of incorporation or the bylaws. (V.A.C.S. Art. 12691-7, Sec. 10.)

Sec. 394.022. ORGANIZATIONAL MEETING. (a) After the issuance of the certificate of incorporation, the board of directors named in the articles of incorporation, at the call of a majority of the incorporators, shall hold an organizational meeting to adopt bylaws, elect officers, and consider other issues that come before the meeting. The meeting may be held inside or outside this state.

(b) The incorporators who call the meeting must give at least three days' notice of the meeting to each director by mailing to the director a notice that states the time and place of the meeting. (V.A.C.S. Art. 12691-7, Sec. 11.)

Sec. 394.023. DISPOSITION OF CORPORATE EARNINGS. (a) The housing finance corporation may not pay dividends. The net earnings of the corporation may not be distributed to or benefit the directors or officers of the corporation or any person except as reasonable compensation for services rendered to the corporation.

(b) If the board of directors determines that sufficient provision has been made for full payment of the expenses, bonds, and other obligations of the corporation, any net corporate earnings accruing after the determination shall be paid to the local government.

(c) This section does not prohibit the board of directors from transferring corporate property as provided by a contract made by the corporation. (V.A.C.S. Art. 12691-7, Sec. 25.)

Sec. 394.024. REGISTERED OFFICE AND AGENT. The housing finance corporation shall maintain a registered office and a registered agent as provided by Article 2.05, Texas Non-Profit Corporation Act (Article 1396-2.05, Vernon's Texas Civil Statutes). The corporation may change its registered office or agent as provided by Article 2.06 of that Act. Process may be served on the corporation as provided by Article 2.07 of that Act. (V.A.C.S. Art. 12691-7, Sec. 12.)

Sec. 394.025. CORPORATE BOOKS AND RECORDS. A housing finance corporation shall keep complete books and records of account and shall keep minutes of the proceedings of its board of directors. (V.A.C.S. Art. 12691-7, Sec. 26.)

Sec. 394.026. DISSOLUTION OF CORPORATION. (a) If the board of directors determines by resolution that the purposes for which the housing finance corporation was formed have been substantially met and that all bonds issued by and all obligations incurred by the corporation have been fully paid, the directors shall execute a certificate of dissolution stating those facts and declaring that the corporation is dissolved. The directors shall file the certificate for recording in the office of the secretary of state. The directors shall execute the certificate under the corporation's seal.

(b) On the filing of the certificate of dissolution, the corporation is dissolved. The title to all funds and property owned by the corporation at the time of dissolution vests in the local government. The funds and property shall be promptly delivered to the local government. (V.A.C.S. Art. 12691-7, Sec. 27.)

[Sections 394.027–394.030 reserved for expansion]

SUBCHAPTER D. CORPORATE POWERS

Sec. 394.031. EXERCISE OF POWERS. (a) A housing finance corporation may exercise any powers incidental to or necessary for the performance of the powers prescribed by this subchapter and may exercise other powers necessary or appropriate to carry out the purposes for which the corporation is organized.

(b) A housing finance corporation may exercise powers under this chapter by resolution of the board of directors. The resolution takes effect immediately on adoption. (V.A.C.S. Art. 12691-7, Secs. 13, Subdiv. (27); 14 (part).)

Sec. 394.032. GENERAL POWERS. (a) A housing finance corporation may:

(1) make contracts and other instruments as necessary or convenient to the exercise of powers under this chapter;

(2) incur liabilities;

(3) borrow money at rates determined by the corporation;

(4) issue notes, bonds, and other obligations; and

(5) secure any of its obligations by the mortgage or pledge of all or part of the corporation's property, franchises, and income.

(b) A housing finance corporation may plan, research, study, develop, and promote the establishment of residential development.

(c) A housing finance corporation may make donations for the public welfare or for charitable, scientific, or educational purposes. (V.A.C.S. Art. 12691-7, Sec. 13, Subdivs. (7), (11), (12), and (26).)

Sec. 394.033. CORPORATE NAME; DURATION; SEAL. (a) A housing finance corporation may have perpetual succession under its corporate name, unless a limited period of duration is stated in the articles of incorporation, and may sue and be sued, and complain and defend, under its corporate name.

(b) A housing finance corporation may have a corporate seal, which may be altered at will, and may use the seal by causing it, or a facsimile of it, to be impressed on, affixed to, or otherwise reproduced on any instrument required to be executed by the corporation's officers. (V.A.C.S. Art. 12691-7, Sec. 13, Subdivs. (1)-(3).)

Sec. 394.034. OFFICERS; AGENTS. A housing finance corporation may elect or appoint corporate officers or agents for a period determined by the corporation, define their duties, and may set their compensation. (V.A.C.S. Art. 12691-7, Sec. 13, Subdiv. (9).)

Sec. 394.035. BYLAWS. A housing finance corporation may make, amend, and repeal bylaws, not inconsistent with the articles of incorporation or this chapter, for the administration and regulation of the corporation's affairs. (V.A.C.S. Art. 12691-7, Sec. 13, Subdiv. (10).)

Sec. 394.036. ACCEPTANCE OF FINANCIAL ASSISTANCE. (a) A housing finance corporation may apply for and accept, on its own behalf or on behalf of another person, advances, loans, grants, contributions, guarantees, rent supplements, mortgage assistance, and other forms of financial assistance from the federal government, the state, a county, a municipality, or any other public or quasi-public body, corporation, or foundation, or from any other public or private source, for any of the purposes of this chapter.

(b) The corporation may include reasonable and appropriate terms, not inconsistent with the purposes of this chapter, in any contract for financial assistance obtained under this section. (V.A.C.S. Art. 12691-7, Sec. 13, Subdiv. (25).)

Sec. 394.037. BONDS. (a) A housing finance corporation may issue bonds to defray, in whole or in part:

(1) the development costs of a residential development; or

(2) the costs of purchasing or funding the making of home mortgages, including the costs of studies and surveys, insurance premiums, financial advisory services, mortgage banking services, administrative services, underwriting fees, legal services, accounting services, and marketing services incurred in connection with the issuance and sale of

the bonds, including bond and interest reserve accounts, capitalized interest accounts, and trustee, custodian, and rating agency fees.

(b) The corporation may pledge all or a part of the revenues, receipts, or resources of the corporation, including any revenues or receipts received from residential development or home mortgages, to the prompt payment of bonds authorized under this chapter and to the interest and any redemption premiums on those bonds. It may issue bonds to refund in whole or in part at any time any bonds previously issued under this chapter by the corporation.

(c) The corporation may designate appropriate names for bonds issued under this chapter. (V.A.C.S. Art. 12691-7, Sec. 13, Subdivs. (19) (part), (21), (24).)

Sec. 394.038. ACQUISITION OF SHARES OR OBLIGATIONS. A housing finance corporation may purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell, or otherwise dispose of, and otherwise use and deal in and with:

(1) shares and other interests in or obligations of other domestic or foreign corporations, whether profit or nonprofit, associations, partnerships, or individuals; or

(2) direct or indirect obligations of the United States or of any other government, state, political subdivision of a state, territory, government district, or any instrumentality of such a governmental entity. (V.A.C.S. Art. 12691-7, Sec. 13, Subdiv. (6).)

Sec. 394.039. SPECIFIC POWERS RELATING TO FINANCIAL AND PROPERTY TRANSACTIONS. A housing finance corporation may:

(1) lend money for its corporate purposes, invest and reinvest its funds, and take and hold real or personal property as security for the payment of the loaned or invested funds;

(2) mortgage, pledge, or grant security interests in any residential development, home mortgage, note, or other property in favor of the holders of bonds issued for those items;

(3) purchase, receive, lease, or otherwise acquire, own, hold, improve, use, or deal in and with real or personal property or interests in that property, wherever the property is located, as required by the purposes of the corporation or as donated to the corporation; and

(4) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or part of its property and assets. (V.A.C.S. Art. 12691-7, Sec. 13, Subdivs. (4), (5), (8), and (22).)

Sec. 394.040. TRANSACTIONS WITH LENDING INSTITUTIONS. (a) A housing finance corporation may make, contract to make, and enter into advance commitments to make home mortgages originated, administered, and serviced by lending institutions. It may pay the reasonable value of services rendered under those contracts. It may acquire, contract to acquire, and enter into advance commitments to acquire, by assignment or other means, home mortgages owned by lending institutions at purchase prices and on other terms determined by the corporation or its agent.

(b) The corporation may require each lending institution from which home mortgages are proposed to be purchased or to which loans are made to submit evidence satisfactory to the corporation of the ability and intention of the lending institution to make home mortgages, and require the submission, within the time specified by the corporation for making disbursements for home mortgages, of evidence satisfactory to the corporation of the making of home mortgages and of the compliance with the standards and requirements established by the corporation under Section 394.041.

(c) The corporation may make loans to lending institutions under terms that, in addition to other provisions determined by the corporation, require:

(1) the institutions to use substantially all of the net proceeds of the loans, directly or indirectly, to make home mortgages in an aggregate principal amount substantially equal to the amount of the net proceeds; and

(2) the loans to be fully secured, to the extent not secured by home mortgages, in the same manner as deposits of public funds of the local government. (V.A.C.S. Art. 12691-7, Sec. 13, Subdivs. (13)-(16), (18).)

Sec. 394.041. STANDARDS FOR MORTGAGES OR LOANS. A housing finance corporation may establish by rule, in resolutions or financing documents relating to the issuance of bonds, standards and requirements applicable to making or purchasing home mortgages or making loans to lending institutions as considered necessary or desirable by the corporation, including standards and requirements related to:

- (1) the time within which lending institutions must make commitments and disbursements for home mortgages;
- (2) the location and other characteristics of homes financed by home mortgages;
- (3) the terms of home mortgages made or acquired;
- (4) the amounts and types of insurance coverage required on homes, home mortgages, and bonds;
- (5) the representations and warranties of lending institutions confirming compliance with the standards and requirements;
- (6) restrictions as to interest rates and other terms of home mortgages or as to the return realized on those mortgages by lending institutions;
- (7) the type and amount of collateral security required on a loan from the corporation and to assure repayment of bonds; and
- (8) other matters regarding the making or purchasing of home mortgages or the making of loans to lending institutions as the corporation considers relevant. (V.A.C.S. Art. 12691-7, Sec. 13, Subdiv. (17).)

Sec. 394.042. DISPOSAL OF RESIDENTIAL DEVELOPMENTS OR HOME MORTGAGES. (a) A housing finance corporation may sell and convey any residential development or home mortgage, including a sale and conveyance subject to a mortgage, pledge, or security interest, as provided in the resolution relating to the issuance of bonds and for the prices and at the times determined by the board of directors.

(b) The corporation may rent, lease, sell, or otherwise dispose of any residential development or home mortgages in whole or in part, or lend sufficient funds to any person to defray in whole or in part the development costs of any residential development or the costs of purchasing home mortgages, so that the rent or other revenue derived from the residential development or home mortgages, combined with any insurance proceeds, reserve accounts, and earnings on those accounts, is designed to produce revenues and receipts at least sufficient to provide for the prompt payment on maturity of principal, interest, and any redemption premiums on bonds issued to finance those costs. (V.A.C.S. Art. 12691-7, Sec. 13, Subdivs. (20), (23).)

[Sections 394.043-394.050 reserved for expansion]

SUBCHAPTER E. HOUSING FINANCE CORPORATION BONDS

Sec. 394.051. BONDS; INVESTMENT. (a) A housing finance corporation may issue its bonds by resolution of the board of directors for the purposes prescribed by this chapter. The resolution takes effect immediately on adoption. The bonds bear interest at a rate authorized by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), and are subject to the following terms provided by the resolution:

- (1) the time at which the bonds are payable;
- (2) the number of series in which the bonds are issued;
- (3) the dates that the bonds bear;
- (4) the time of maturity of the bonds;
- (5) the medium of payment and the place of payment of the bonds;
- (6) any registration privileges;
- (7) terms of redemption at certain premiums;

- (8) manner of execution of the bonds;
- (9) covenants and other terms of the bonds; and
- (10) the form of the bonds, either coupon or registered.

(b) The bonds may be sold at public or private sale in the manner and on the terms provided by the resolution. Pending the preparation of definitive bonds, any interim receipts or certificates in the form and with the provisions provided by the resolution may be issued to the purchasers of bonds sold under this chapter.

(c) The aggregate principal amount of bonds that a housing finance corporation may issue in a calendar year to defray costs described by Section 394.037(a)(2) may not exceed the total of:

- (1) the cost of issuance of the bonds, any reserves or capitalized interest required by the resolutions authorizing the bonds, plus any bond discounts; and
- (2) the largest of:
 - (A) \$20 million;
 - (B) the product of \$150 and the population of the local government as determined by the corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of the bonds; or
 - (C) an amount equal to 25 percent of the total dollar amount of the market demand for home mortgages during that calendar year as determined by the corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of the bonds.

(d) A determination made under Subsection (c)(2)(B) or (c)(2)(C) is conclusive.

(e) The housing finance corporation shall notify the Texas Department on Aging of each bond issuance and shall deliver to the department a copy of each certificate of resolution authorizing the issuance and any other information required by the department.

(f) The housing finance corporation, or any trustee or custodian on behalf of the corporation, may invest any funds held by it as provided by the resolution authorizing the issuance of the bonds.

(g) The housing finance corporation is not required to acquire or hold title to a residential development, a home mortgage, or any interest in the development or mortgage. (V.A.C.S. Art. 12691-7, Sec. 13, Subdiv. (19) (part); Secs. 14 (part), 19.)

Sec. 394.052. BOND COVENANTS. (a) A resolution authorizing the issuance of bonds under this chapter may contain covenants relating to:

- (1) the use and disposition of the bond proceeds and of the revenue and receipts from any residential development or home mortgages for which the bonds are issued, including the creation and maintenance of reserves;
- (2) the issuance of other or additional bonds relating to any residential development or to any rehabilitation, improvement, renovation, or enlargement of, or addition to, a residential development;
- (3) the maintenance and repair of a residential development or any homes;
- (4) the insurance carried on any residential development, home, home mortgage, or bonds, and the use and disposition of insurance money;
- (5) the appointment of one or more banks or trust companies located inside or outside this state that have the necessary trust powers as trustee or custodian for the benefit of the bondholders, paying agent, or bond registrar, and the investment of any funds held by the trustee or custodian;

(6) the appointment of one or more mortgage bankers to provide necessary administrative and mortgage servicing functions to assure the proper administration of the corporation's portfolio of home mortgage loans for the benefit of the bondholders;

(7) the maximum interest rate payable on any home mortgage; and

(8) the terms on which the bondholders or the trustees for the bonds are entitled to the appointment of a receiver by a court of competent jurisdiction.

(b) The terms established under Subsection (a)(8) relating to the appointment of a receiver may provide that the receiver may:

(1) enter and take possession of all or part of the residential development or home mortgage;

(2) maintain, lease, sell, or otherwise dispose of the development or mortgage;

(3) prescribe rentals or other payments; and

(4) collect, receive, and apply all income and other revenues that arise from the development or mortgage after the receiver takes possession. (V.A.C.S. Art. 12691-7, Sec. 15 (part).)

Sec. 394.053. **VALIDITY OF BONDS; SIGNATURES.** (a) Bonds issued under this chapter must bear the actual or facsimile signature of the housing finance corporation's officers designated in the resolution authorizing the bonds. The validity of a signature of an officer of the corporation is not affected by the fact that before the delivery of the bond or its payment, a person whose signature appears on the bond ceases to be an officer.

(b) The validity of the bonds is not dependent on or affected by the validity or regularity of any proceedings relating to the residential development or home mortgages for which the bonds are issued.

(c) The resolution authorizing the bonds may require that the bonds contain a statement that they are issued under this chapter. The statement is conclusive evidence of the validity of the bonds and the regularity of their issuance. (V.A.C.S. Art. 12691-7, Sec. 16.)

Sec. 394.054. **SECURITY FOR BONDS.** (a) A resolution authorizing the issuance of bonds under this chapter may require that the principal of and interest on the bonds be secured by a mortgage, pledge, security interest, insurance agreement, or indenture of trust that covers the residential development or home mortgages for which the bonds are issued and may include any improvements or extensions made after the bonds are issued. A security instrument may contain covenants and agreements to properly safeguard the bonds as provided by the resolution authorizing the bonds and shall be executed in the manner provided by the resolution.

(b) This chapter, the resolution, and the mortgage, pledge, security interest, or indenture of trust constitute a contract with the bondholders that continues in effect until the principal of and interest on the bonds and any redemption premiums have been fully paid or provision for payment has been made.

(c) The resolution, the mortgage, pledge, security interest, or indenture of trust, and the duties under this chapter of the housing finance corporation and its officers and other authorities are enforceable as provided by the resolution, the instrument, or this chapter by any bondholder by mandamus, by foreclosure of the mortgage, pledge, security interest, or indenture of trust, or by any other appropriate action in a court of competent jurisdiction. The resolution or the mortgage, pledge, security interest, or indenture of trust may provide that the remedies and rights to enforcement may be vested in a trustee, with full power of appointment, for the benefit of all the bondholders. The trustee is subject to the control of a number of bondholders or bond owners as provided in the resolution or instrument.

(d) Bonds issued under this chapter may be secured by a pledge of or a lien on all or part of the revenues, receipts, or other resources of the housing finance corporation, including the revenues and receipts derived from the residential development or home mortgages or from any notes or other obligations of lending institutions with respect to which the bonds have been issued. The board of directors may provide in the resolution authorizing the bonds for the issuance of additional bonds equally and ratably secured by a lien on the revenues and receipts or may provide that the lien on the revenues and receipts is subordinate. Subordinate lien bonds may also be issued unless prohibited by a bond resolution. (V.A.C.S. Art. 12691-7, Secs. 15 (part), 17.)

Sec. 394.055. LIABILITY FOR BONDS AND CONTRACTS; DEBT NOT CREATED.

(a) Bonds issued under this chapter are limited obligations of the housing finance corporation and are payable solely from the revenue, receipts, and other resources pledged to their payment. A bondholder may not compel the local government to pay the bond, the interest, or any redemption premium.

(b) The local government and this state are not liable in any way regarding bonds issued by the housing finance corporation. An agreement or obligation of the corporation does not constitute, within the meaning of a statutory or constitutional provision, an agreement, obligation, or debt of the state or the local government.

(c) The bonds do not constitute, within the meaning of a statutory or constitutional provision, an indebtedness, an obligation, or a loan of credit of the state, the local government, or any other municipality, county, or other municipal or political corporation or subdivision of the state. The bonds do not create a moral obligation on the part of any of those governmental entities with respect to the payment of the bonds. Those governmental entities may not make payments with respect to the bonds.

(d) The face of each bond must plainly state that it has been issued under this chapter and that it does not constitute, within the meaning of any statutory or constitutional provision, an indebtedness, an obligation, or a loan of credit of the state, the local government, or any other municipality, county, or other municipal or political corporation or subdivision of the state. (V.A.C.S. Art. 12691-7, Secs. 18, 24.)

Sec. 394.056. BOND AS SECURITY. (a) A bond issued under this chapter or a coupon representing interest on the bond is, when delivered, a security as that term is defined under Chapter 8 of the Uniform Commercial Code (Chapter 8, Title 1, Business & Commerce Code) and is an exempt security under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

(b) A contract made under this chapter is not a security under The Securities Act. (V.A.C.S. Art. 12691-7, Sec. 22.)

Sec. 394.057. BOND AS AUTHORIZED INVESTMENT OR AS SECURITY FOR DEPOSIT. (a) Bonds issued under this chapter are legal and authorized investments for any bank, savings bank, trust company, savings and loan association, insurance company, fiduciary, trustee, guardian, or sinking fund of a municipality, county, school district, or other political corporation or subdivision of the state.

(b) The bonds are eligible to secure the deposit of any public funds of this state or of a municipality, county, school district, or other political corporation or subdivision of the state, and are lawful and sufficient securities for the deposits at face value if accompanied by all unmatured coupons, if any, appurtenant to the bonds. (V.A.C.S. Art. 12691-7, Sec. 23.)

[Sections 394.058-394.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 394.901. DESIGNATION OF AREA AS ECONOMICALLY DEPRESSED OR BLIGHTED; NOTICE. (a) To designate an area as economically depressed or blighted

under the meaning provided by Section 394.003(3)(B) or (C), the governing body of the affected municipality must hold a public hearing and must find that the area substantially impairs or arrests the sound growth of the municipality or that it constitutes an economic or social liability and is, in its current condition and use, a menace to the public health, safety, morals, or welfare.

(b) The governing body shall give notice of the hearing as provided by Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), except that the notice must be published at least 10 days before the date of the hearing. (V.A.C.S. Art. 12691-7, Sec. 2(6) (part).)

Sec. 394.902. HOUSING FOR ELDERLY. (a) The housing finance corporation shall require that at least five percent of the units in a multifamily residential development be built or renovated and be reserved for the lifetime of the development for occupancy by elderly persons of low income or by families of low or moderate income in which an elderly person is the head of a household if the development:

- (1) contains at least 20 units; and
- (2) is financed by bonds issued under this chapter as a result of an official decision to issue bonds that occurs on or after January 1, 1986.

(b) Instead of requiring a reservation of units as required under Subsection (a), the housing finance corporation may collect a fee equal to one-tenth percent of the total principal amount of the loan made for the multifamily residential development. The corporation shall collect the fee from the person who receives the loan at the time the loan is delivered. Immediately after the receipt of the fee, the corporation shall remit the fee to the Texas Department on Aging. The department shall deposit all funds received under this subsection to the credit of a special account in the general revenue fund. Funds in the special account may be used only to assist in obtaining housing for elderly persons or families in which an elderly person is the head of a household.

(c) If the housing finance corporation requires a reservation under Subsection (a), the design engineer for the development must certify to the corporation that the reserved units in the development meet standards set by the Texas Department on Aging for elderly persons.

(d) The governing body of the local government that authorizes, sponsors, or otherwise participates in the creation of the housing finance corporation shall cooperate with the Texas Department on Aging to implement this section and shall submit to the department an annual report relating to the number of developments financed under this chapter, the number of units reserved for the elderly persons or for families in which an elderly person is the head of the household, the amount of fees collected, and other information required by the department. (V.A.C.S. Art. 12691-7, Sec. 13A; Sec. 10, Ch. 650, Acts 69th Leg., R.S., 1985.)

Sec. 394.903. LOCATION OF RESIDENTIAL DEVELOPMENT; RESIDENTIAL DEVELOPMENT SITES. (a) A residential development covered by this chapter must be located within the local government.

(b) The local government may transfer any residential development site to a housing finance corporation by sale or lease. The governing body of the local government may authorize the transfer by resolution without submitting the issue to the voters and without regard to the requirements, restrictions, limitations, or other provisions contained in any other general, special, or local law. The site may be located wholly or partly inside or outside the local government. (V.A.C.S. Art. 12691-7, Secs. 2(16) (part), 29.)

Sec. 394.904. EXEMPTION FROM REQUIREMENTS AND RESTRICTIONS APPLYING TO PUBLIC PROPERTY. (a) The acquisition, construction, or rehabilitation of a private residential development or a home is not subject to requirements relating to public buildings, structures, grounds, works, or improvements imposed by the laws of this state, or to any other similar requirements.

(b) Any competitive bidding requirement or restriction imposed on the procedure regarding the award of contracts for that acquisition, construction, or rehabilitation or regarding the lease, sale, or other disposition of property of the local government is not applicable to any action taken under this chapter. (V.A.C.S. Art. 12691-7, Sec. 20.)

Sec. 394.905. EXEMPTION FROM TAXATION. The housing finance corporation, all property owned by it, the income from the property, all bonds issued by it, the income from the bonds, and the transfer of the bonds are exempt, as public property used for public purposes, from license fees, recording fees, and all other taxes imposed by this state or any political subdivision of this state. The corporation is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter. (V.A.C.S. Art. 12691-7, Sec. 21 (part).)

Sec. 394.906. CONDITIONS UNDER WHICH FEDERAL GUARANTEE OR HOME MORTGAGE INSURANCE NOT REQUIRED. A home mortgage does not require a federal guarantee or home mortgage insurance if the principal of and interest on the housing finance corporation's bonds issued to make or purchase the home mortgage or to make loans to lending institutions are guaranteed or insured by an agency, department, or instrumentality of the United States or by an insurance or surety company authorized to issue municipal bond insurance. (V.A.C.S. Art. 12691-7, Sec. 2(11) (part).)

Sec. 394.907. CORPORATION POWERS NOT RESTRICTED; POLICE POWERS NOT AFFECTED. (a) This chapter does not restrict or otherwise limit any powers that the housing finance corporation may otherwise exercise under the laws of this state.

(b) Except as provided by this chapter, no proceeding, notice, or approval is required for the organization of the housing finance corporation, the issuance of bonds, or the issuance of any instrument as security for the bonds.

(c) This chapter does not deprive this state or a governmental subdivision of this state of their respective police powers over property of the housing finance corporation and does not impair any power over the property that is otherwise provided by law to any official or agency of the state or its governmental subdivisions. (V.A.C.S. Art. 12691-7, Sec. 28 (part).)

[Chapters 395-400 reserved for expansion]

TITLE 13. WATER AND UTILITIES

SUBTITLE A. MUNICIPAL WATER AND UTILITIES

CHAPTER 401. WATER CONTROL BY MUNICIPALITIES

Sec. 401.001. CONTROL OF HARMFUL EXCESS OF WATER BY MUNICIPALITY WITH POPULATION OF 150,001 TO 239,999

150,001 TO 239,999

Sec. 401.002. PROTECTION OF STREAMS AND WATERSHEDS BY HOME-RULE MUNICIPALITY

TITLE 13. WATER AND UTILITIES

SUBTITLE A. MUNICIPAL WATER AND UTILITIES

CHAPTER 401. WATER CONTROL BY MUNICIPALITIES

Sec. 401.001. CONTROL OF HARMFUL EXCESS OF WATER BY MUNICIPALITY WITH POPULATION OF 150,001 TO 239,999. (a) In this section, "water control body" means a municipality, county, levee district, water control and improvement district, water improvement district, navigation district, or other body politic created under the

laws of the state with statutory powers concerned with the control of harmful excess of water.

(b) To change or abate by mechanical means a harmful excess of water, either constant or periodic, that threatens life and property within its boundaries, a municipality with a population of 150,001 to 239,999 may:

- (1) straighten, widen, levee, restrain, or otherwise control or improve a river, creek, bayou, stream, or other body of water;
- (2) grade or fill land; or
- (3) take other appropriate actions.

(c) The municipality may pay for an improvement, or a part of an improvement, under Subsection (b) in the manner provided by Section 372.041 or any other manner not expressly prohibited by the charter of the municipality.

(d) If an improvement under Subsection (b) is provided or operated by a water control body other than the municipality, the municipality may contribute to the payment of the cost, replacement, alteration, extension, maintenance, and operation of the improvement.

(e) If an improvement under Subsection (b) is provided and operated by the municipality, the municipality may solicit and receive from another water control body a contribution for the payment of the cost, alteration, enlargement, maintenance, and operation of the improvement.

(f) The municipality may purchase or otherwise acquire and take over any improvement or the maintenance or operation of any improvement and may contract to assume an outstanding bond debt or other debt secured by lien if:

- (1) the debt was incurred to provide for the improvement; and
- (2) the interest on the debt is not greater than six percent a year.

(g) The municipality may not, in purchasing or otherwise acquiring an improvement or the right to maintain and control property of a levee or improvement district, assume the bonded indebtedness outstanding and owing by the district unless the municipality is authorized to do so at an election at which the qualified voters of the municipality approve the assumption of indebtedness or maintenance.

(h) Subsection (f) supersedes any provision in a municipal charter that is not in conformity with that subsection. Subsection (f) does not authorize an increase in the municipal debt limit fixed by law.

(i) The municipality may contract with a water control body to perform, jointly with a water control body or independently, an action authorized by this section.

(j) Water control bodies otherwise having appropriate powers may use this section and contract with one another to accomplish the purposes of this section.

(k) A water control body, under contract with a municipality having power under this section, may provide money required to construct, maintain, and operate an improvement under this section, either separately or jointly under contract with another water control body, in a manner not expressly prohibited by the charter of the municipality or the statute creating the municipality or the water control body. (V.A.C.S. Art. 1180a.)

Sec. 401.002. PROTECTION OF STREAMS AND WATERSHEDS BY HOME-RULE MUNICIPALITY. (a) A home-rule municipality may prohibit the pollution of and may police a stream, drain, or tributary that may constitute the source of water supply of any municipality.

(b) A home-rule municipality may provide for the protection of and may police any watersheds.

(c) The authority granted by this section may be exercised inside or outside the municipality's boundaries. (V.A.C.S. Art. 1175, Subdiv. 19 (part).)

CHAPTER 402. MUNICIPAL UTILITIES

SUBCHAPTER A. PUBLIC UTILITY SYSTEMS IN GENERAL

- Sec. 402.001. MUNICIPAL UTILITY SYSTEMS; GENERAL POWERS
- Sec. 402.002. CERTAIN PUBLIC SERVICES AND UTILITY SYSTEMS IN HOME-RULE MUNICIPALITY
- Sec. 402.003. ACQUISITION OF EXISTING PUBLIC UTILITY; PAYMENT IN LIEU OF SCHOOL TAXES

[Sections 402.004–402.010 reserved for expansion]

SUBCHAPTER B. ACQUISITION OF INTERESTS FOR DRAINAGE, SEWAGE, OR WATER SUPPLY PURPOSES

- Sec. 402.011. USE OF EMINENT DOMAIN POWER
- Sec. 402.012. MUNICIPALITIES IN OR CONTRACTING WITH A WATER DISTRICT
- Sec. 402.013. WATER SYSTEM IN MUNICIPALITIES WITH POPULATION OF MORE THAN 1,000
- Sec. 402.014. CONTRACTS WITH WATER DISTRICTS OR NONPROFIT CORPORATIONS
- Sec. 402.015. WATER SUPPLY IN TYPE A GENERAL-LAW MUNICIPALITY
- Sec. 402.016. SALE OR LEASE OF WATER SYSTEM BY TYPE A GENERAL-LAW MUNICIPALITY
- Sec. 402.017. WATER SYSTEMS IN HOME-RULE MUNICIPALITIES
- Sec. 402.018. MUNICIPAL CONTRACT WITH PRIVATE ENTITY
- Sec. 402.019. CONTRACT WITH WATER IMPROVEMENT DISTRICT OR WATER CONTROL AND IMPROVEMENT DISTRICT
- Sec. 402.020. CONTRACT WITH WATER DISTRICT
- Sec. 402.021. CONTRACT BETWEEN DISTRICT AND MUNICIPALITY WITH POPULATION OF MORE THAN 900,000
- Sec. 402.022. CONTRACTS WITH CERTAIN SPECIAL DISTRICTS
- Sec. 402.023. CONTRACT BETWEEN MUNICIPALITY AND TRINITY RIVER AUTHORITY

[Sections 402.024–402.040 reserved for expansion]

SUBCHAPTER C. MUNICIPAL DRAINAGE UTILITY SYSTEMS

- Sec. 402.041. SHORT TITLE
- Sec. 402.042. LEGISLATIVE FINDING
- Sec. 402.043. APPLICATION OF SUBCHAPTER TO GENERAL-LAW MUNICIPALITIES WITH POPULATION OF MORE THAN 20,000
- Sec. 402.044. DEFINITIONS
- Sec. 402.045. ADOPTION OF SYSTEM; RULES
- Sec. 402.046. INCORPORATION OF EXISTING FACILITIES
- Sec. 402.047. DRAINAGE CHARGES
- Sec. 402.048. BILLINGS; DEPOSIT NOT REQUIRED
- Sec. 402.049. SEGREGATION OF INCOME
- Sec. 402.050. DELINQUENT CHARGES
- Sec. 402.051. DRAINAGE REVENUE BONDS
- Sec. 402.052. DISCONTINUATION OF DRAINAGE SYSTEM
- Sec. 402.053. EXEMPTIONS

[Sections 402.054–402.060 reserved for expansion]

SUBCHAPTER D. IMPROVEMENTS TO WATER AND SEWER SYSTEMS IN CERTAIN MUNICIPALITIES

- Sec. 402.061. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES
- Sec. 402.062. DEFINITIONS
- Sec. 402.063. MUNICIPAL AUTHORITY
- Sec. 402.064. DECLARATION; COSTS; ESTIMATED ASSESSMENT
- Sec. 402.065. ASSESSMENT PROVISIONS
- Sec. 402.066. APPORTIONMENT OF ASSESSMENTS
- Sec. 402.067. NOTICE OF PROPOSED IMPROVEMENTS; LIEN

- Sec. 402.068. EXEMPTIONS; PERSONAL LIABILITY FOR ASSESSMENT
- Sec. 402.069. NOTICE AND HEARING REQUIREMENTS; APPEAL
- Sec. 402.070. CHANGE; ABANDONMENT
- Sec. 402.071. CORRECTIONS; REASSESSMENTS
- Sec. 402.072. JOINT PROCEEDINGS
- Sec. 402.073. RESTRICTIONS IN CERTAIN COUNTIES
- Sec. 402.074. AUTHORIZED INVESTMENT
- Sec. 402.075. HOME-RULE MUNICIPALITY

[Sections 402.076–402.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- Sec. 402.901. RELOCATION OR REPLACEMENT OF WATER OR SEWER LATERALS
- Sec. 402.902. OPERATION OF CERTAIN ELECTRIC LIGHT AND POWER SYSTEMS BY HOME-RULE MUNICIPALITIES
- Sec. 402.903. AGREEMENT WITH CONSERVATION AND RECLAMATION DISTRICT
- Sec. 402.904. LEASE OF NATURAL GAS DISTRIBUTION SYSTEM BY CERTAIN MUNICIPALITIES

CHAPTER 402. MUNICIPAL UTILITIES

SUBCHAPTER A. PUBLIC UTILITY SYSTEMS IN GENERAL

Sec. 402.001. MUNICIPAL UTILITY SYSTEMS; GENERAL POWERS. (a) In this section, “utility system” means a water, sewer, gas, or electricity system.

(b) A municipality may purchase, construct, or operate a utility system inside or outside the municipal boundaries and may regulate the system in a manner that protects the interests of the municipality. The municipality may own land inside or outside its boundaries for these purposes.

(c) A municipality may extend the lines of its utility systems outside the municipal boundaries and may sell water, sewer, gas, or electric service to any person outside its boundaries. The municipality may contract with persons outside its boundaries to permit them to connect with those utility systems on terms the municipality considers to be in its best interest. This subsection does not authorize the extension of electric lines into the corporate limits of another municipality.

(d) A municipality that owns or operates a utility system may prescribe the kind of water or gas mains, sewer pipes, and electric appliances that may be used inside or outside the municipality. The municipality may inspect those facilities and appliances, require that they be kept in good condition at all times, and prescribe the necessary rules, which may include penalties, concerning them. (V.A.C.S. Art. 1108.)

Sec. 402.002. CERTAIN PUBLIC SERVICES AND UTILITY SYSTEMS IN HOME-RULE MUNICIPALITY. (a) In this section, “public service” includes a public telephone system, street railway system, fertilizing plant, slaughterhouse, municipal railway terminal, dock, wharf, ferry, ferry landing, or shipping facility, including loading and unloading devices.

(b) A home-rule municipality may buy, own, construct inside or outside the municipal limits, and maintain and operate a gas system, electric lighting plant, sewage plant, or other public service or public utility and may require and receive compensation for services furnished for private purposes or otherwise. The municipality may use eminent domain authority to appropriate real property, rights-of-way, or other property as necessary to efficiently carry out those objects. The municipality may condemn the property of any person that conducts such a business or utility service for the purpose of operating and maintaining the public service or public utility and distributing the utility services in the municipality. In its charter, the municipality may adopt rules it considers advisable for the acquisition or operation of the public service or public utility.

(c) The municipality may manufacture its own electricity, gas, or anything else needed or used by the public. It may purchase, and make contracts for the purchase of, gas, electricity, oil, or any other commodity or article used by the public and may sell it to the public on terms as provided by the municipal charter.

(d) The municipality may require water works corporations, gas companies, street car companies, telephone companies, telegraph companies, electric companies, or other persons who hold a franchise from the municipality to extend their services to territory as required by the municipal charter. (V.A.C.S. Art. 1175, Subdivs. 13, 14, 30.)

Sec. 402.003. ACQUISITION OF EXISTING PUBLIC UTILITY; PAYMENT IN LIEU OF SCHOOL TAXES. (a) If, after May 8, 1943, a municipality acquires an existing public utility, the property of which is subject to taxation by a school district, and the municipality finances the purchase of the utility by issuing revenue bonds, the governing body of the municipality may expressly provide, in an indenture of trust, mortgage, or other lien instrument that evidences the obligation of the municipality for the purchase price, for an annual payment from the income of the utility of an amount equal to the average annual taxes assessed by the school district on the properties of the utility for the five years preceding the year in which the utility is acquired.

(b) The school board trustees and the governing body of the municipality may agree on an annual payment of a sum in lieu of school taxes. The sum must be adequate and just under the circumstances of the case considering the school district's needs.

(c) The obligation of the municipality to make the payment in lieu of taxes is a proper item of municipal operating expenses that, with other operating expenses, is a first lien and charge against the income of the encumbered utility.

(d) The obligation of the municipality to make the payment in lieu of taxes as provided in the encumbrance agreement is an "expense or obligation" of the utility system as that term is used in statutes authorizing the acquisition of a public utility and the issuance of revenue bonds for the purchase of the utility. The obligation extends to and binds any municipality that purchases or otherwise acquires an existing public utility in accordance with the terms of the encumbrance agreement or mutual agreements as authorized under Subsections (a) and (b).

(e) The obligation of the municipality as fixed in the indenture or encumbrance is not impaired, affected, modified, or released by the release or discharge of the encumbrance, and, as long as the municipality owns and operates the public utility, it shall continue to pay to the school district on an annual basis from the revenues of the utility an amount equal to the average annual taxes assessed in behalf of the school district on the properties of the utility for the five years preceding the year in which the utility is acquired by the municipality. Alternatively, after the release or discharge of the encumbrance, the school board trustees and the governing body of the municipality may agree to provide for a payment in lieu of school taxes as provided by Subsection (b). (V.A.C.S. Art. 1118a-1, Secs. 1 (part), 2, 3.)

[Sections 402.004-402.010 reserved for expansion]

SUBCHAPTER B. ACQUISITION OF INTERESTS FOR DRAINAGE, SEWAGE, OR WATER SUPPLY PURPOSES

Sec. 402.011. USE OF EMINENT DOMAIN POWER. A municipality that owns its water system may exercise the power of eminent domain to condemn private property located inside or outside the municipal limits to acquire rights-of-way for digging or excavating canals or for laying water mains or other pipelines to bring water into the municipality for public use. (V.A.C.S. Art. 1110.)

Sec. 402.012. MUNICIPALITIES IN OR CONTRACTING WITH A WATER DISTRICT. (a) In this section, "water district" means a municipal water authority or other district created under Article XVI, Section 59, of the Texas Constitution.

(b) This section applies to a municipality that is located in a water district or that has a contract with a water district for a supply of untreated water. This section is cumulative of municipal charter provisions relating to the same subject but takes precedence over a municipal charter provision to the extent of any conflict.

(c) The municipality, acting alone or with one or more other municipalities to which this section applies, may:

(1) receive or acquire by gift, dedication, purchase, or condemnation any property in this state, located inside or outside the municipal boundaries, to build or acquire:

(A) water purification and treatment facilities;

(B) reservoirs; or

(C) pipelines and any type of water transportation facilities considered necessary to provide the municipality or municipalities with fresh water for municipal, domestic, and industrial purposes; and

(2) construct or otherwise acquire any facility described by Subdivision (1).

(d) Chapter 21, Property Code, applies to a condemnation proceeding brought under this section.

(e) The municipality or municipalities, individually or jointly, may operate, maintain, and improve, and may sell or lease in whole or in part, property acquired or constructed under this section and any improvements on that property. Municipalities may individually or jointly control and operate jointly owned facilities by contracting with one another on mutually agreeable terms.

(f) The governing body of a municipality providing water treatment facilities under this section may:

(1) issue negotiable municipal bonds or warrants for that purpose and impose taxes to provide the interest and sinking fund for those bonds or warrants in the manner provided by law for the issuance of tax supported bonds and warrants by the municipality; or

(2) issue revenue bonds supported by the revenues of one or more of the municipal utilities as provided by Article 1111 et seq., Revised Statutes.

(g) The governing body of a municipality that acquires facilities or property under this section may impose reasonable charges for the use of the facilities or property. In the case of jointly operated facilities, the governing bodies of the municipalities involved may impose the charges by agreement.

(h) A municipality or a combination of municipalities acting under this section may contract with any other municipality to supply the other municipality with services from the facilities or improvements acquired or constructed under this section. By ordinance, the governing bodies of the municipalities providing the services may prescribe and enforce rules relating to the use of the improvements and facilities.

(i) An election is not required for approval of any contract relating to water treatment under this section.

(j) In addition to taxes for the interest and sinking fund of bonds or warrants issued under this section, the governing body of the municipality separately or jointly acquiring improvements or facilities under this section may impose taxes for the improvement, operation, and maintenance of the improvements and facilities. Those taxes are subject to limits on taxation imposed by the constitution and laws of this state and by the municipal charter. (V.A.C.S. Art. 1109a-3, Secs. 1, 2, 3, 4, 5, 6, 8 (part).)

Sec. 402.013. WATER SYSTEM IN MUNICIPALITIES WITH POPULATION OF MORE THAN 1,000. (a) This section applies to a municipality with a population of more than 1,000 that owns and operates a water system for its residents for fire protection or domestic consumption. Except as otherwise provided by this section, a municipality's authority under this section is in addition to authority granted by municipal charter.

(b) The municipality may acquire any interest, including a fee simple interest, in publicly or privately owned property, including riparian rights, located anywhere in the state. The municipality may acquire the interest by purchase, gift, devise, or eminent domain.

(c) To furnish an adequate and wholesome supply of water for the residents, the municipality may exercise the power of eminent domain to acquire and condemn public or private property to extend, improve, or enlarge its water system, including water supply

reservoirs, riparian rights, standpipes, and watersheds, to construct water supply reservoirs, wells or artesian wells, or dams, and to construct or establish necessary facilities or appurtenances.

(d) For purposes of this section, the municipality has the same powers relating to eminent domain conferred by statute on water improvement districts or water control and preservation districts or conferred by general law on municipalities.

(e) The municipality may acquire fee simple title to property under this section if the resolution ordering condemnation proceedings specifies that such an interest is to be acquired. (V.A.C.S. Art. 1109.)

Sec. 402.014. **CONTRACTS WITH WATER DISTRICTS OR NONPROFIT CORPORATIONS.** (a) In this section, "water district" means a district created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality may enter into a contract with a water district or with a corporation organized to be operated without profit under which the district or corporation will acquire for the benefit of and convey to the municipality, either separately or together, a water supply or treatment system, a water distribution system, a sanitary sewage collection or treatment system, or works or improvements necessary for drainage of land in the municipality. In connection with the acquisition, the district or corporation shall improve, enlarge, or extend the existing municipal facilities as provided by the contract.

(c) If the contract provides that the municipality assumes ownership of the water, sewer, or drainage system on completion of construction or at the time that all debt incurred by the district or corporation in the acquisition, construction, improvement, or extension of the system is paid in full, the municipality may make payments to the district or corporation for water, sewer, or drainage services to part or all of the residents of the municipality. The contract may provide for purchase of the system by the municipality through periodic payments to the district or corporation in amounts that, together with the net income of the district or corporation, are sufficient to pay the principal of and interest on the bonds of the district or corporation as they become due. The contract may provide:

(1) that any payments due under this section are payable from and are secured by a pledge of a specified part of the revenues of the municipal water system, sewer system, or drainage system;

(2) for the levying of a tax to make payments due under this section; or

(3) that the payments due under this section be made from a combination of revenues from the system and taxes.

(d) The contract may provide that the district or corporation may use the streets, alleys, and other public ways and places of the municipality for water, sewer, or drainage purposes for a period that ends at the time the indebtedness of the district or corporation is paid in full and the municipality acquires title to the system in accordance with this section.

(e) The contract may provide for the operation of the system by the municipality, and, if so authorized, the municipality may operate the system.

(f) A contract under this section must be authorized by a majority vote of the governing body of the municipality. (V.A.C.S. Art. 1109j.)

Sec. 402.015. **WATER SUPPLY IN TYPE A GENERAL-LAW MUNICIPALITY.** (a) The governing body of a Type A general-law municipality may provide for a municipal water supply system.

(b) The municipality may establish and regulate public wells, pumps, cisterns, hydrants, and reservoirs located inside or outside the municipality, including in the municipality's streets, for the convenience of its residents, for firefighting purposes, and for the prevention of unnecessary waste of water. (V.A.C.S. Art. 1015, Subdiv. 30 (part).)

Sec. 402.016. **SALE OR LEASE OF WATER SYSTEM BY TYPE A GENERAL-LAW MUNICIPALITY.** (a) A Type A general-law municipality may not sell or lease a water system and plant owned by the municipality unless the question of the sale or lease is first approved by a majority of the qualified voters of the municipality who vote on the

question at a referendum. The governing body of the municipality may provide for submission of the question at a general or special election.

(b) Before the 20th day before the date of the election, the proposed lease or sales agreement must be plainly set out in the form of an ordinance or contract and must be filed in the office of the secretary or clerk of the municipality, where it shall be available for public inspection at all times. (V.A.C.S. Art. 1015, Subdiv. 30 (part).)

Sec. 402.017. WATER SYSTEMS IN HOME-RULE MUNICIPALITIES. (a) A home-rule municipality may exercise the exclusive right to own, construct, and operate a water system for the use of the municipality and its residents. The municipality may regulate the system and may prescribe rates for the water furnished.

(b) The municipality may acquire by purchase, donation, or other means suitable land inside or outside the municipality for construction of the system, including any necessary rights-of-way.

(c) The municipality may take the necessary action to operate and maintain the system and to require water customers to pay charges imposed for the water furnished, including the imposition of a lien on property to secure the payment of charges for water supplied on that property to the owner, the owner's agent, or the person in charge of the property.

(d) The municipality may create, from revenue received from operating the water system, a separate fund dedicated solely to extending, operating, maintaining, repairing, and improving the water system. This revenue may be pledged for paying the principal of and providing an interest and sinking fund on bonds issued for these purposes, subject to applicable regulations in the municipal charter. (V.A.C.S. Art. 1175, Subdiv. 11.)

Sec. 402.018. MUNICIPAL CONTRACT WITH PRIVATE ENTITY. (a) A municipality that owns and operates its water distribution system may contract with an individual, firm, or corporation that operates without profit to make available for delivery to and use by the municipality all or part of the raw or treated water to be used for the municipal water distribution system. The service to be provided by the supplier may include the holding of water in reserve to serve needs of the municipality, and charges to the municipality under the contract may include compensation for this service.

(b) The contract may be for any duration to which the parties agree and may provide for renewal and extension.

(c) Contractual payments required solely from municipal water system revenue are an operating expense of that system. The municipality shall set its rates and charges to users of the municipal water system at a level sufficient to pay the maintenance and operating expenses of that system as provided by Article 1113, Revised Statutes, and to provide for payment of principal of and interest on any revenue bonds of the municipality payable from water revenue.

(d) If a contract with a term of more than one year obligates the municipality to pay the consideration from tax revenue, involves the leasing to the supplier of a major part of an existing water production or supply facility belonging to the municipality or involves the right to operate a major part of such a facility, or restricts the municipality from obtaining water from another supplier, the contract is not effective unless approved or authorized at an election on the question.

(e) If Subsection (d) is not applicable, an election is not required. The governing body of the municipality may, however, order an election on the question before approving the contract.

(f) An election under this section shall be held to the extent practicable in the same manner as an election for the issuance of municipal bonds under Chapter 1, Title 22, Revised Statutes. (V.A.C.S. Art. 1109g.)

Sec. 402.019. CONTRACT WITH WATER IMPROVEMENT DISTRICT OR WATER CONTROL AND IMPROVEMENT DISTRICT. (a) A municipality may contract with a water improvement district or water control and improvement district created under Article XVI, Section 59, of the Texas Constitution for the supplying of water to the municipality. The governing body of the municipality and the board of directors of the district may provide for any duration for the contract that does not exceed 30 years, except that they may provide for the contract to continue in effect until the repayment of

all warrants, notes, or bonds issued by the district to acquire facilities necessary or convenient for the district to supply water to the municipality.

(b) The municipality shall pay for water supplied under the contract from water system revenues of the municipality. Payment may be secured by an irrevocable pledge of and a first lien on those revenues. The district may not demand payment from tax revenue.

(c) A contract under this section is not binding until approved by a majority of the qualified voters of the municipality who vote on the question at an election held for the purpose. The governing body of the municipality may order the election. Notice of the election must be published once each week for two consecutive weeks in a newspaper of general circulation published in the municipality, with the first publication occurring before the 10th day before the date of the election. If such a newspaper is not published in the municipality, notice of the election must be posted at each election precinct in the municipality and at the city hall. The notice need not set out the full text of the contract or detail its provisions. During the 10-day period preceding the date of the election, the proposed contract shall be on file at the office of the municipal secretary and available for public inspection. If the election results in approval of the contract, the contract takes effect immediately; otherwise the contract is ineffective.

(d) As is necessary or convenient to supply water under a contract made under this section, a district may:

- (1) construct or otherwise acquire and equip canals, reservoirs, basins, pipelines, conduits, filtration and aeration plants, and other equipment and supplies; and
- (2) acquire property by purchase, eminent domain, or other means.

(e) A contracting district may issue warrants, notes, or bonds for the acquisition of facilities necessary or convenient for supplying water under the contract. The district may secure those evidences of indebtedness by a pledge of revenues to be derived under the contract under this section. With voter approval, the district may issue bonds for this purpose secured by taxes or a combination of taxes and contract revenues. (V.A.C.S. Art. 1109d, Secs. 1, 2, 3 (part), 5 (part), 6, 7.)

Sec. 402.020. CONTRACT WITH WATER DISTRICT. (a) In this section, "water district" means a district or authority created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality and a water district by contract may provide for the district to supply water to the municipality. By contract, the municipality and district may also provide for:

- (1) the lease of the municipality's water production, water supply, and water supply facilities to the district;
- (2) the district to operate the municipality's water production, water supply, and water supply facilities; or
- (3) the municipality to operate the district's water production, water supply, and water supply facilities.

(c) A contract under this section may prohibit the municipality from obtaining water from sources other than the district, subject to any exceptions that the contract may provide.

(d) The contract may be on any terms and for any duration to which the parties agree and may provide that it continues in effect as long as any bonds of the district specified in the contract, including bonds issued to refund them, remain unpaid.

(e) A contract under this section is subject to the district's statutory or contractual duty to periodically revise the rate charged for water sold or services rendered by the district to the municipality under the contract so that the net revenues of the district will be sufficient to allow the district to pay its operation and maintenance expenses and the principal of and interest on the bonds secured by the contract to the extent provided by the resolution authorizing the bonds. Payments by the municipality under the contract are an operating expense of the municipal water system.

(f) A municipality may not contract under this section without first obtaining the approval of a majority of the qualified voters of the municipality who vote on the question at an election held for the purpose. The governing body of the municipality shall order the election. The governing body may submit to the voters the question of authorizing the municipality to make a water supply contract, a lease and water supply contract, or both. Both issues may be submitted as a single proposition. Notice of the election must be published once each week for two consecutive weeks in a newspaper of general circulation published in the municipality, with the first publication occurring before the 14th day before the date of the election. If such a newspaper is not published in the municipality, notice of the election must be posted at the city hall and two other public places in the municipality. If the election result is favorable, the governing body shall enact an ordinance prescribing the form and substance of the lease or contract or both, as the case may be, and directing the mayor or mayor pro tempore to sign it. The ordinance may be enacted by a vote of a majority of the members of the governing body on one reading and at the same meeting at which it is introduced. (V.A.C.S. Art. 1109e, Secs. 1; 2; 3(a) (part), (c).)

Sec. 402.021. CONTRACT BETWEEN DISTRICT AND MUNICIPALITY WITH POPULATION OF MORE THAN 900,000. (a) In this section, "district" means a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality with a population of more than 900,000 that owns and operates a municipal water system may:

- (1) enter into a contract or joint enterprise with a district for the conveyance, transportation, and distribution of water for or on behalf of the municipality; or
- (2) contract to sell water to a district and repurchase all or part of the water at one or more designated points on the district's conveyance, transportation, and distribution system.

(c) A contract under Subsection (b) may provide that municipal payments to the district under the contract:

- (1) are an operating expense of the municipal water system; or
- (2) are payable from surplus or other funds of the municipal water system, from the revenues of specified municipal water sales contracts, or from other sources.

(d) If the contract under Subsection (b) obligates the municipality to pay any of the consideration from tax revenue, it must first be approved at an election ordered and conducted in the same manner as a bond election.

(e) A contract under Subsection (b) may be made for any period not to exceed 40 years and may provide that it continues in effect until payment of:

- (1) all bonds issued by the district to finance conveyance, transportation, or distribution facilities, or the extension, enlargement, or improvement of those facilities; and
- (2) any bonds issued to refund bonds described by Subdivision (1).

(f) A municipality covered by this section may contract for the sale of water to industrial and commercial customers or municipal corporations or political subdivisions as provided by ordinance. A contract under this subsection may not be for a term longer than 40 years.

(g) A municipality electing to make a contract under this section is governed solely by this section regardless of another statute, charter provision, or ordinance to the contrary. (V.A.C.S. Art. 1109e-1, Secs. 1, 2, 3, 4 (part).)

Sec. 402.022. CONTRACTS WITH CERTAIN SPECIAL DISTRICTS. (a) In this section, "special district" means a district that derives its powers from Article XVI, Section 59, of the Texas Constitution and that has statutory authority to contract with municipalities for the transportation and disposal of sewage.

(b) A municipality located in whole or in part in a county containing a special district, and acting under an ordinance enacted by its governing body, may enter into a contract with the district that may provide:

- (1) that the district will make available to the municipality and provide sewage transportation, sewage treatment and disposal services, or any one or more of those services;
 - (2) for the provision of standby service; or
 - (3) for use by the district of sewage transportation, treatment, and disposal facilities owned by the municipality.
- (c) The contract may be on terms and for a duration agreeable to the parties and may provide that it continue in effect until payment of:
- (1) bonds issued by the district and specified in the contract; and
 - (2) any bonds issued to refund bonds described by Subdivision (1).
- (d) The municipality is entitled to continued performance of services covered by the contract after the amortization of the district's investment in the facilities during the useful life of the facilities on payment of charges reduced to take into account the amortization.
- (e) Except as provided by Subsection (f), revenue received by a special district from a municipality under a contract made under this section may be used only for:
- (1) payment of principal of and interest on, and providing reserve for, bonds issued by the district to finance the facilities covered by the contract; and
 - (2) operating and maintenance expenses related to the contract, including legal, administrative, and management supervision fees and expenses.
- (f) The contract may provide that a designated part of any surplus accumulated for the benefit of the municipality may be spent by the district to enlarge or improve facilities of the district used to serve the municipality.
- (g) Payments by a municipality to a district shall be made from revenues of the municipality's water system, sanitary sewer system, or both of those systems, or of the municipality's combined water and sanitary sewer system, as specified in the contract. Those payments are an operating expense of the system whose revenues are to be so applied. Except as provided by Subsection (h), neither the district nor a holder of the bonds of the district may demand payment of the municipality's obligations out of funds raised or to be raised by taxation.
- (h) A municipality may pledge its taxing power in a contract made under this section if a majority of the qualified voters of the municipality who vote on the question at an election vote in favor of the proposed contract and the levy of property taxes to pay the municipality's obligations to the authority under the contract. The election shall be conducted in substantially the same manner as a municipal bond election held under Chapter 1, Title 22, Revised Statutes. If the voters approve the contract and tax levy:
- (1) the municipal governing body shall enact an ordinance prescribing the form and substance of the contract and directing the proper officers of the municipality to sign it; and
 - (2) once the contract has been executed, the municipality's obligations to the authority under the contract are an obligation of the municipality's taxing power, but may be paid, as provided by the contract, from taxes and revenues from which payments are required by Subsection (g).
- (i) A municipality that has executed a contract under this section that is payable in whole or in part from revenue of the municipality's water or sanitary sewer system, or both of those systems, or the municipality's combined water and sewer system shall set and periodically adjust rates charged to users so that at all times that revenue is sufficient to pay:
- (1) the expenses of operating and maintaining each system in accordance with current standards and requirements for preventing stream pollution;
 - (2) obligations of the municipality under the contract; and
 - (3) all obligations of the municipality relating to revenue bonds issued from the system before or after execution of the contract under this section.

(j) The contract may require the use of consulting engineers and financial experts to advise the municipality as to when service rates are to be adjusted.

(k) A district may render services concurrently to more than one municipality through construction and operation of a plant serving multiple municipalities, with the cost for the services to be allocated among the participating municipalities as provided by one or more contracts made under this section. All the compensation to be received by and all the security pledged to the district by all municipalities is available to the authority to secure bonds issued to provide necessary construction funds. (V.A.C.S. Art. 1109i-1, Secs. 1; 2; 3; 4(a), (b) (part), (c); 5; 6.)

Sec. 402.023. CONTRACT BETWEEN MUNICIPALITY AND TRINITY RIVER AUTHORITY. (a) In this section, "sewage disposal services" includes sewage transportation, treatment, and disposal.

(b) A municipality that is located in whole or in part inside the boundaries of the Trinity River Authority or located in whole or in part in the watershed of the Trinity River may, by ordinance, contract with the authority for the authority to provide the municipality with sewage disposal services. The contract may contain a provision for standby service. The contract may be made on terms and for a duration agreeable to the parties and may provide that it will continue in effect as long as specified bonds of the authority, including refunding bonds, remain unpaid. The municipality is entitled to the continued performance of services covered by the contract after amortization of the authority's investment in facilities during the useful life of the facilities, on payment of charges reduced to take the amortization into account.

(c) Except as provided by Subsection (d), revenue received by the authority from a municipality under a contract made under this section may be used only for:

(1) payment of principal of and interest on, and providing reserves for, bonds issued by the authority to finance facilities for sewage disposal services; and

(2) operation and maintenance expenses related to the contract, including legal, administrative, and management supervision fees and expenses.

(d) The authority and a municipality may provide in the contract that a designated part of any surplus revenue accumulated for the benefit of the municipality may be spent by the authority to enlarge or improve facilities of the authority used especially to serve that municipality.

(e) The authority becomes owner of sewage accepted by it for transportation and treatment and is solely responsible for the proper treatment and disposal of the sewage and the effluent. A contracting municipality is immune from liability for any improper treatment or disposal of the sewage or effluent. A municipality is not entitled to credit of any type, either in the exchange of water, money, or other consideration, for any effluent delivered to the authority. Such an exchange or sale may not be made a condition to any contract under this section.

(f) Payments by a municipality under a contract shall be made from revenues of the municipality's water system, sanitary sewer system, or both of those systems, or of the municipality's combined water and sanitary sewer system, as specified in the contract. Those payments are an operating expense of the system whose revenues are pledged under the contract. Except as provided by Subsection (h), neither the authority nor a holder of bonds of the authority may demand payment of the municipality's obligations out of funds raised or to be raised or to be raised by taxation.

(g) If at the time it executes a contract under this section a municipality has outstanding revenue bonds secured by a pledge of the net revenue from a combined water and sanitary sewer system plus the net revenue from the municipality's gas distribution or electric power system, that portion of the payments made by the municipality to the authority and used by the authority for debt service on bonds of the authority may be treated by the municipality for its accounting purposes as a capital expenditure if:

(1) revenue from the municipality's gas or electric system, as the case may be, is adequate to satisfy the requirements of the ordinance or ordinances authorizing the outstanding revenue bonds and similarly secured bonds that may later be authorized, regarding the provision of funds for operation, maintenance, and debt service; and

(2) revenue from the municipality's sanitary sewer system and, if encumbered under the contract, from the municipality's water system, are sufficient to meet the requirements of the contract with the authority.

(h) A municipality may pledge its taxing power in a contract made under this section if a majority of the qualified voters of the municipality who vote on the question at an election vote in favor of the proposed contract and the levy of property taxes to pay the municipality's obligations to the authority under the contract. The election shall be conducted in substantially the same manner as a municipal bond election held under Chapter 1, Title 22, Revised Statutes. If the voters approve the contract and tax levy:

(1) the municipal governing body shall enact an ordinance prescribing the form and substance of the contract and directing the proper officers of the municipality to sign it; and

(2) once the contract has been executed, the municipality's obligations to the authority under the contract are an obligation of the municipality's taxing power, but may be paid as provided by the contract, from taxes and revenues from which payments are required by Subsection (f).

(i) A municipality that has executed a contract under this section that is payable in whole or in part from revenue of the municipality's water or sewer system, or both of those systems, or the municipality's or combined water and sewer system shall set and periodically adjust rates charged to users so that at all times that revenue is sufficient to pay:

(1) the expenses of operating and maintaining the system in accordance with current standards and requirements for preventing stream pollution;

(2) obligations of the municipality under the contract; and

(3) all obligations of the municipality relating to revenue bonds issued for the system before or after execution of the contract under this section.

(j) A contract under this section may require the use of consulting engineers and financial experts to advise the municipality as to when service rates are to be adjusted.

(k) The authority may render services concurrently to more than one municipality through construction and operation of a plant serving multiple municipalities, with the cost for the services to be allocated among the participating municipalities as provided by one or more contracts made under this section. All the compensation to be received by and all the security pledged to the authority by all municipalities is available to the authority to secure bonds issued to provide necessary construction funds. A contract used by the authority to secure bonds to finance its plant and facilities must be submitted by the authority to the attorney general for examination. If the attorney general approves the contract and bonds, the contract is incontestable. (V.A.C.S. Art. 1109i, Secs. 1 (part), 2, 3, 3a, 4(a), (b) (part), (c), 5, 6.)

[Sections 402.024–402.040 reserved for expansion]

SUBCHAPTER C. MUNICIPAL DRAINAGE UTILITY SYSTEMS

Sec. 402.041. **SHORT TITLE.** This subchapter may be cited as the Municipal Drainage Utility Systems Act. (V.A.C.S. Art. 1110h, Sec. 1.)

Sec. 402.042. **LEGISLATIVE FINDING.** (a) The legislature finds that authority is needed to:

(1) permit certain general-law municipalities to establish a municipal drainage utility system within the boundaries of the municipality;

(2) provide rules for the use, operation, and financing of the system;

(3) protect the public health and safety in the municipalities from loss of life and property caused by surface water overflows and surface water stagnation within the boundaries of the municipalities;

(4) delegate to the municipalities the power to declare, after a public hearing, a drainage system created under this subchapter to be a public utility;

(5) prescribe bases on which a municipal drainage utility system may be funded and fees in support of the system may be assessed, levied, and collected;

(6) provide exemptions of certain persons from this subchapter; and

(7) prescribe other rules related to the subject of municipal drainage.

(b) This subchapter is remedial. (V.A.C.S. Art. 1110h, Secs. 2(a), (b) (part).)

Sec. 402.043. APPLICATION OF SUBCHAPTER TO GENERAL-LAW MUNICIPALITIES WITH POPULATION OF MORE THAN 20,000. This subchapter applies only to a general-law municipality with a population of more than 20,000. (V.A.C.S. Art. 1110h, Secs. 3, 4(2).)

Sec. 402.044. DEFINITIONS. In this subchapter:

(1) "Benefitted property" means a lot or tract to which drainage service is made available under this subchapter.

(2) "Cost of service" as applied to a drainage system service to any benefitted property means:

(A) the prorated cost of the acquisition, whether by eminent domain or otherwise, of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;

(B) the prorated cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;

(C) the prorated cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of structures, equipment, and facilities used in draining the benefitted property;

(D) the prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;

(E) the prorated cost of funding and financing charges and interest before and during construction and for a maximum of two years after completion of construction, and the start-up cost of a drainage facility during construction and for a maximum of two years after completion of construction used in draining the benefitted property;

(F) the prorated cost of debt service and reserve requirements of structures, equipment, and facilities provided by revenue bonds or other drainage revenue-pledge securities issued by the municipality; or

(G) the administrative costs of a drainage utility system.

(3) "Drainage" means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect or store the water, or divert the water into natural or artificial watercourses.

(4) "Drainage charge" means:

(A) the levy imposed to recover the cost of the service of the municipality in furnishing drainage for any benefitted property; and

(B) if specifically provided by the governing body of the municipality by ordinance, an amount made in contribution to funding of future drainage system construction by the municipality.

(5) "Drainage system" means the drainage owned or controlled in whole or in part by the municipality and dedicated to the service of benefitted property, including provisions for additions to the system.

(6) "Facilities" means the property, either real, personal, or mixed, that is used in providing drainage and included in the system.

(7) "Public utility" means a drainage service that is regularly provided by the municipality through municipal property dedicated to that service to every person who has a freehold interest in real property located within the municipal boundaries and that is based on:

- (A) an established schedule of charges;
- (B) the use of the police power to implement the service; and
- (C) nondiscriminatory, reasonable, and equitable terms as declared under this subchapter. (V.A.C.S. Art. 1110h, Secs. 4(1), (3)-(7), (10).)

Sec. 402.045. **ADOPTION OF SYSTEM; RULES.** (a) Subject to the requirements in Subsections (b) and (c), the governing body of the municipality, by a three-fourths vote of its entire membership, may adopt this subchapter by an ordinance that declares the adoption and that declares the drainage of the municipality to be a public utility.

(b) Before adopting the ordinance, the governing body must find that:

(1) the municipality will establish a schedule of drainage charges against all real property in the municipality subject to charges under this subchapter;

(2) the municipality will provide drainage for all real property in the municipality on payment of drainage charges, except real property exempted under this subchapter;

(3) if the municipality includes an amount in contribution to funding future drainage facilities in the drainage charge, it will not apply any tax income to the drainage system costs, construction, or operations; and

(4) the municipality will offer drainage service on nondiscriminatory, reasonable, and equitable terms.

(c) Before adopting the ordinance, the governing body must publish a notice in a newspaper of general circulation in the municipality stating the time and place of a public hearing to consider the proposed ordinance. The proposed ordinance must be published in full in the notice. The governing body shall publish the notice three times before the date of the hearing. The first publication must occur on or before the 30th day before the date of the hearing. After convening the hearing, the governing body may recess the hearing once for not more than the next five consecutive days before reconvening without republication of notice. If the recess is more than five days, notice of the time and place of the recessed hearing must be published before the third calendar day before the date of the hearing.

(d) After passage of the ordinance adopting this subchapter, the municipality may levy a schedule of drainage charges. The municipality must hold a public hearing on the charges before levying the charges. The municipality must give notice of the hearing in the manner provided by Subsection (c). The proposed ordinance to institute the drainage charges must be published in the notice.

(e) If, after the hearing, the proposed charges, as implemented, differ by 25 percent or less of the total amount that the original charges were projected to have generated within a year after being instituted, an additional notice or hearing is not necessary.

(f) The municipality by ordinance may adopt and enforce rules as it considers appropriate to operate the drainage utility system. (V.A.C.S. Art. 1110h, Secs. 5, 6(k).)

Sec. 402.046. **INCORPORATION OF EXISTING FACILITIES.** The municipality may incorporate existing drainage facilities, materials, and supplies into the drainage utility system. (V.A.C.S. Art. 1110h, Sec. 9.)

Sec. 402.047. **DRAINAGE CHARGES.** (a) The governing body of the municipality may charge a lot or tract of benefitted property for drainage service on any basis other than the value of the property, but the basis must be directly related to drainage and the terms of the levy, and any classification of the benefitted properties in the municipality must be nondiscriminatory, equitable, and reasonable.

(b) In setting the schedule of charges for drainage service, the governing body must base its calculations on an inventory of the lots and tracts within the municipal boundaries. The governing body may use approved municipal tax plats and assessment rolls for that purpose. The governing body may also consider the use made of the benefitted

property, using official zoning maps of the municipality for that purpose. The governing body may consider the size, in area, and topography of a parcel of benefitted property, in assessing the drainage charge to the property.

(c) The governing body may fix rates for drainage charges in advance and may change, adjust, and readjust the rates and charges for drainage service from time to time. The rates must be equitable for similar services in all areas of the municipality.

(d) Unless a person's lot or tract is exempted under this subchapter, the person may not use the drainage system for the lot or tract unless the person pays the full, established, drainage charge. (V.A.C.S. Art. 1110h, Secs. 6(b), (c), (d), (e) (part), (g), (h).)

Sec. 402.048. BILLINGS; DEPOSIT NOT REQUIRED. (a) The municipality may bill drainage charges, identified separately, with the municipality's other public utility billings. If the freehold owner does not receive any other municipal public utility service at the benefitted property, the municipality may mail the billing with the municipal tax plat number or other identification of the benefitted property to the owner at the address at which the owner receives municipal billing for property that receives other municipal utility services. If the owner does not receive a municipal public utility service at any other location in the municipality, the municipality may send the bill to any known address of the owner. If there is no known address, the municipality shall forward the billing to the agency or department that handles property tax collection for the municipality, and the billing shall be collected as a lien on the benefitted property under the procedure prescribed by this subchapter.

(b) The municipality may not require a deposit for drainage service as a precondition to accepting surface flow in the drainage utility system. (V.A.C.S. Art. 1110h, Secs. 6(e) (part), (f).)

Sec. 402.049. SEGREGATION OF INCOME. The income of a drainage utility system must be segregated and completely identifiable in municipal accounts. If drainage charges are solely for the cost of service, the municipality may transfer the charges in whole or in part to the municipal general fund, except for any part pledged to retire any outstanding indebtedness or obligation incurred, or as a reserve for future construction, repair, or maintenance of the drainage system. All cost of service, however, may be expended only from drainage system income after the first fiscal year of system operation under this subchapter. If the governing body has levied, in the drainage charge, an amount in contribution to the funding of future system improvements, including replacement, new construction, or extension, that amount is not transferable to the general fund. (V.A.C.S. Art. 1110h, Sec. 6(a).)

Sec. 402.050. DELINQUENT CHARGES. (a) The municipality shall periodically compile lists of delinquent drainage charges as of January 1 against benefitted property within its municipal boundaries. The list must include the names of the record freehold owners, if known, and their addresses, the dollar amounts owed, and the penalties and interest prescribed by general ordinance. The municipality shall send the information to each owner with, or as a part of, the owner's property tax statement or shall send the information, as notice, to any known address of the owner by certified mail, properly stamped, and return receipt requested. After the municipality has delivered notice of the delinquency to the address of the owner, the municipality may fix a lien for the charges, penalties, and interest against the benefitted property by publishing the list once in a newspaper of general circulation in the municipality, together with a list of the unknown owners and the owners with unknown addresses. The chief executive officer of the municipality may then execute a certificate to the county clerk attesting that the lists are correct, that notices and publications required under this subchapter have been accomplished, and that the delinquencies are unpaid. Certified copies of the lists and the publisher's affidavits for the notices shall be attached to the certificate, with a separately reproduced certificate for each benefitted property executed by the municipal officer charged with administration of the drainage utility system.

(b) Instead of a separate delinquency certificate for each benefitted property, the municipality may enter, on computer property tax lien filings made by the municipal tax collection officer or agency, a separate line item on the filings designated "Drn. Chg." that shows the tax plat or other identifying number for the benefitted property, the

names of the record owners, if known, the notation "owners unknown" for unknown record owners, the year in which due, and the total amount of money owed and delinquent. The tax lien filing shall be considered the filing of the drainage charge lien.

(c) For each separate delinquency certificate filed for a benefitted property, the county clerk shall charge the applicable fee for filing and recording a document that is not listed in Chapter 118. The county clerk shall maintain a "Drainage Lien Index" for the certificates.

(d) A petition in a suit to foreclose a drainage lien must be filed in a civil court at law that has jurisdiction of the amount in controversy. The court may assess reasonable attorney's fees and other costs of collection, but the costs must be set at least at the cost of the suit, penalties, and simple interest not exceeding 10 percent. (V.A.C.S. Art. 1110h, Secs. 6(i), (j).)

Sec. 402.051. DRAINAGE REVENUE BONDS. By majority vote of the governing body, the municipality may issue drainage revenue bonds. The municipality may use the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes). In addition, the municipality may pledge income received by contracts for the provision of drainage to other governments or governmental subdivisions located inside or outside the municipal boundaries. (V.A.C.S. Art. 1110h, Sec. 6(l).)

Sec. 402.052. DISCONTINUATION OF DRAINAGE SYSTEM. (a) If, after at least five years of substantially continuous operation of a municipal drainage system, the governing body of the municipality determines that the system should be discontinued, that the powers under this subchapter should be revoked, and that provision for municipal drainage should be made by property taxes, the governing body may adopt an ordinance to that effect after providing notice and a public hearing as provided by Section 402.045.

(b) If the municipality discontinues a system under Subsection (a), it may not adopt a system under this subchapter for at least five years after the discontinuation.

(c) A discontinuation does not affect a written obligation incurred by the municipality for funding or for the purchase of equipment, materials, or labor for the drainage system that is not then fully paid or otherwise discharged.

(d) A claim for damages based on an alleged failure of the drainage system that is filed with the municipality before the adoption of the ordinance discontinuing the drainage system is not abated by the discontinuation. (V.A.C.S. Art. 1110h, Sec. 7.)

Sec. 402.053. EXEMPTIONS. (a) A governmental entity or person described by Subsection (b) and a lot or tract in which the governmental entity or person holds a freehold interest may be exempt from this subchapter and all ordinances, resolutions, and rules adopted under this subchapter.

(b) The following may be exempt:

- (1) this state;
- (2) a county;
- (3) a municipality;
- (4) a school district; and
- (5) a person with a wholly sufficient, complete, and private drainage system that discharges into a stream. (V.A.C.S. Art. 1110h, Sec. 8.)

[Sections 402.054-402.060 reserved for expansion]

SUBCHAPTER D. IMPROVEMENTS TO WATER AND SEWER SYSTEMS IN CERTAIN MUNICIPALITIES

Sec. 402.061. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES. To exercise authority under this subchapter, a municipality must have all or a major part of its territory in a county with a population of more than 25,000. (V.A.C.S. Art. 1110c, Sec. 2(A).)

Sec. 402.062. DEFINITIONS. In this subchapter:

(1) "Benefitted property" means a lot or tract to which water or sewer service is made available under this subchapter.

(2) "Cost of improvement" includes engineering expenses, fiscal fees, and other expenses incident to the construction of improvements to the water system, sewer system, or both systems in addition to the other costs of the improvements.

(3) "Sewer system improvements" means the laying of mains, laterals, and extensions and all appliances and necessary adjuncts required for the sanitary disposal of excreta and offal from the area in which the improvements are made but does not include off-site mains, laterals, and extensions and appliances and adjuncts necessary to connect the improvements to the existing sewer system operated by the municipality.

(4) "Water system improvements" means the laying of a water main with gates, tees, crosses, taps, meter boxes, manholes, or extensions, and any other appurtenances required to furnish water for domestic or commercial purposes to the area in which the improvements are constructed, but does not include any off-site appurtenances required to connect the improvements to the existing water system operated by the municipality. (V.A.C.S. Art. 1110c, Secs. 2(B), (C), (D), (H).)

Sec. 402.063. MUNICIPAL AUTHORITY. (a) The municipality may improve a water works system or sanitary sewer system within the municipal boundaries by constructing, extending, enlarging, or reconstructing the system.

(b) The governing body of the municipality may determine the need for improvements, may order the construction of the necessary improvements, and may contract for the improvements.

(c) The governing body may act under this subchapter through resolution, motion, order, or ordinance unless an ordinance is specifically required. The governing body may adopt, by resolution or ordinance, any rules appropriate to the exercise of its powers under this subchapter, including rules relating to notice and hearing under this subchapter.

(d) The governing body may not assess a special tax or assessment against a railway, street railway, or interurban right-of-way to defray a portion of the cost of the improvements to the municipal water or sanitary sewer system.

(e) This subchapter does not affect the law of this state relating to the duty of a municipality to furnish water or sewer service in its proprietary capacity. (V.A.C.S. Art. 1110c, Secs. 1 (part), 3 (part), 5, 15, 19-A.)

Sec. 402.064. DECLARATION; COSTS; ESTIMATED ASSESSMENT. (a) In the ordinance or resolution that declares the need for the improvements, the municipality:

(1) must state the general nature and extent of the improvements; and

(2) may direct that detailed plans, specifications, and cost estimates for the improvements be prepared and submitted to the governing body.

(b) The cost of the improvements may be paid wholly by the municipality or partly by the municipality and partly by the benefitted property and its owners. If any part of the cost is to be paid by the benefitted property and its owners, the governing body of the municipality must prepare an estimate of the cost of the improvements. The governing body must prepare the estimate before any improvements are constructed, either before or after bids for the proposed construction are received by the municipality, but before the hearing required under this subchapter is held. (V.A.C.S. Art. 1110c, Secs. 3 (part), 4 (part).)

Sec. 402.065. ASSESSMENT PROVISIONS. (a) By ordinance, the governing body of the municipality may:

(1) assess not more than nine-tenths of the estimated cost of improvements against the benefitted property and the owners of that property;

(2) provide the time, terms, and conditions of payment and defaults of the assessments; and

(3) prescribe the interest rate on the assessment, not to exceed 10 percent a year.

(b) The governing body may issue in the name of the municipality assignable certificates in evidence of assessments levied under this section that declare the lien on the property and the liability of the owners whether named correctly or not. The governing body may set the terms and conditions of those certificates. If a certificate substantially states that the required proceeding relating to improvements referred to in the certificate has been held in compliance with law and that all the prerequisites to the fixing of an assessment lien against the property described in the certificate and the personal liability of the owner of the property have been performed, the certificate is prima facie evidence of all the matters recited in the certificate, and further proof is not required. In a suit on an assessment or reassessment in evidence of which a certificate may be issued under this subchapter, it is sufficient to allege the substance of the recitals in the certificate and that those recitals are true. Further allegations with reference to the proceedings relating to the assessment or reassessment are not necessary.

(c) An assessment against benefitted property under this section is collectable with interest, cost of collection, and reasonable attorney's fees. The assessment is a first and prior lien on the assessed property and the lien takes effect on the date that a notice of proposed improvements is made under Section 402.067. The lien is superior to any other lien or claim except a state, county, school district, or municipal property tax lien. The assessment is a personal liability and charge against the owners of the assessed property on the date on which the lien takes effect, whether or not the owners are named in a notice, instrument, certificate, or ordinance provided for under this subchapter.

(d) The municipality may make assessments against several parcels of benefitted property in one assessment if the parcels are owned by the same person. The municipality may jointly assess benefitted property owned jointly by one or more persons. (V.A.C.S. Art. 1110c, Secs. 4 (part), 6, 10, 14.)

Sec. 402.066. APPORTIONMENT OF ASSESSMENTS. (a) Except as provided by Subsection (c), the municipality shall separately compute the cost of the water or sewer improvements and shall apportion the part of the cost of those improvements that may be assessed against the benefitted property and the owners of the property, among the parcels of the benefitted property and the owners, in accordance with the front foot rule.

(b) Under the front foot rule, the governing body of the municipality shall assess each parcel of benefitted property according to the number of lineal feet of the parcel that abuts on a public street, irrespective of the location of improvements constructed under this subchapter relating to that parcel if the improvements provide water or sewer service to the assessed parcel. The governing body shall assess a corner lot based on the shorter side of the lot that abuts on a public street.

(c) If, in the opinion of the governing body, application of that rule would result in injustice or inequality in particular cases, the governing body shall apportion and assess those costs in the proportion it considers just and equitable, taking into account the special benefits in enhanced value to be received by those owners, and shall adjust the apportionment so as to produce a substantial equality of benefits received and burdens imposed. (V.A.C.S. Art. 1110c, Sec. 7.)

Sec. 402.067. NOTICE OF PROPOSED IMPROVEMENTS; LIEN. (a) If the governing body of the municipality proposes to levy or assess any of the cost of improvements against the benefitted property as provided by Section 402.065, the governing body may file a notice, signed on behalf of the municipality by the municipal clerk, secretary, mayor, or other officer performing the duties of those officers, with the county clerk of the county in which the property is located. The notice must substantially show that the governing body has determined by order, directive, or otherwise that water or sewer system improvements are necessary, identify the required improvements by location or otherwise, state that a portion of the cost of the improvements is to be or has been specially assessed as a lien against the benefitted property, and describe that property. One notice may contain any number of systems or improvements.

(b) It is not necessary that a notice under this section give details or be sworn to or acknowledged. The governing body may file the notice at any time. The county clerk with whom the notice is filed shall record the notice in the records of mortgages or deeds of trust and shall index it in the name of the municipality and in the name or other

designation of the water or sewer system to which the notice relates. (V.A.C.S. Art. 1110c, Secs. 8, 9.)

Sec. 402.068. EXEMPTIONS; PERSONAL LIABILITY FOR ASSESSMENT. (a) All property, including church and school property, is subject to a tax or assessment authorized for local improvements under this subchapter. However, this subchapter does not authorize the municipality or its governing body to fix a lien against any interest in property that is exempt from the lien of a special assessment for local improvements under the constitution of this state at the time the lien takes effect. The owner of such a property is personally liable for any assessment made in connection with the improvement, and the municipality may refuse water or sewer service to the owner until the owner pays the municipality the assessment made against the property or an amount equal to the assessment made against private property of equal or comparable size. The fact that an ordered improvement is omitted as to property, an interest in which is exempt, does not invalidate the lien or liability of assessment made against any other property.

(b) The municipality may enforce a lien created against any property and the personal liability of the owner of the property by an action in a court having jurisdiction or by sale of the assessed property in the manner provided by law or charter in effect in that municipality for the sale of property for municipal property taxes.

(c) As an aid to enforcement of the liability imposed by the assessment, the municipality may refuse to connect or may disconnect water or sewer service to a parcel of benefitted property during the period in which there is a default in the payment of any amount assessed under this subchapter against the parcel or its owner. (V.A.C.S. Art. 1110c, Sec. 11.)

Sec. 402.069. NOTICE AND HEARING REQUIREMENTS; APPEAL. (a) The municipality may not make an assessment under this subchapter against any benefitted property until it has given notice and provided an opportunity for a hearing as provided by this section. The municipality may not make an assessment against any benefitted property or the owners of the property in excess of the enhancement of value of the property caused by the improvements as determined by the hearing.

(b) The municipality shall deliver the notice required under this section in writing by mailing the notice to the address of the owner of the property or to the person who last paid taxes on the property as determined by the municipal tax rolls. The municipality must mail the notice before the 10th day before the date set for the hearing and must publish the notice at least three times in a newspaper of general circulation in the municipality in which the special assessment tax is to be imposed. The municipality shall publish the first notice before the 10th day before the date set for the hearing. Proof of the mailing and publication constitutes proof that all the notice requirements of this section have been met.

(c) A notice is sufficient, valid, and binding on all persons who own or claim benefitted property or an interest in that property if the notice:

- (1) generally describes the nature of the improvements for which the municipality proposes to make assessments and to which the notice relates;
- (2) describes the water or sanitary sewer system to be improved or the portions of that system to which the improvements relate;
- (3) states the estimated amount per front foot proposed to be assessed against benefitted property or the owners of the property;
- (4) describes the property benefitted by each system or portion of system with reference to which the required hearing is to be held;
- (5) states the estimated total cost of the improvements on each system or portion of a system; and
- (6) states the time and place of the hearing.

(d) The governing body of the municipality shall conduct the hearing. Each person who owns or claims benefitted property or an interest in that property is entitled to be heard on any matter to which a hearing is a constitutional prerequisite to the validity of

an assessment authorized by this subchapter. Such a person may contest the amount of the proposed assessment, the lien and liability for the lien, the special benefits claimed for the property to be improved and its owner by means of improvements for which assessments are to be levied, and the accuracy, sufficiency, regularity, and validity of the proceedings and any contract in connection with the improvements and proposed assessments. The governing body may correct any deficiencies and may determine the amounts of the assessments and other necessary matters. By ordinance, the municipality may close the hearing and may levy the assessment for improvements before, during, or after the construction of those improvements. The municipality may not make any part of such an assessment mature before the acceptance by the municipality of the improvements for which the assessment is levied.

(e) A person who owns or claims assessed property or an interest in that property may appeal the assessment based on the amount of the assessment; on any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract relating to the assessment; or on anything that is not within the discretion of the governing body of the municipality, by bringing suit in a court of competent jurisdiction within 15 days after the date the assessment is levied. A claimant who does not bring suit within that time waives the right to contest any matter that might have been presented at the hearing and is barred and estopped from contesting the assessment or the proceedings and contract relating to the assessment in any manner. The only defense to an assessment in a suit brought to enforce the assessment is failure to publish notice as required by this section or that the assessment exceeds the amount of the estimate. The words or acts of any municipal officer or employee, including a member of the governing body, do not affect the force and effect of this subchapter, except for official actions of the governing body as shown in its written proceedings and records. (V.A.C.S. Art. 1110c, Sec. 12.)

Sec. 402.070. CHANGE; ABANDONMENT. (a) Except as limited by this section, the governing body of the municipality may change plans, methods, contracts, or other proceedings relating to improvements.

(b) The governing body may not make a change that substantially affects the nature or quality of the improvements unless the governing body, by a two-thirds vote, determines that it is impractical to proceed with the improvements as proposed.

(c) If a substantial change is made after a hearing has been ordered or held, a new cost estimate and a new hearing with proper notices is required unless the improvement is totally abandoned.

(d) A change in or an abandonment of improvements requires the consent of any person who has contracted with the municipality for the construction of the improvements.

(e) If improvements are abandoned, the municipality shall pass an ordinance that cancels any assessments already levied for the improvements and that cancels any other proceedings relating to those improvements. (V.A.C.S. Art. 1110c, Sec. 13.)

Sec. 402.071. CORRECTIONS; REASSESSMENTS. (a) If an assessment is determined to be invalid or unenforceable, the governing body of the municipality may correct any deficiency in the proceedings relating to the assessment or any mistake or irregularity in connection with the assessment. The governing body may make and levy reassessments after a notice and hearing that comply as nearly as possible with the requirements for the original notice and hearing, and subject to the provisions relating to special benefits. A recital in a certificate issued as evidence of a reassessment has the same force as a recital in a certificate related to an original assessment.

(b) A person who owns or claims an interest in property against which a reassessment is levied has the same right of appeal provided under this subchapter for an original assessment. If the person does not appeal within 15 days after the date of the hearing relating to the reassessment, the provisions of Section 402.069 relating to waiver, bar, estoppel, and defense apply. (V.A.C.S. Art. 1110c, Secs. 16, 17.)

Sec. 402.072. JOINT PROCEEDINGS. The municipality may make the improvements and assessments provided under this subchapter in conjunction with the street improvements and assessments provided for in Chapter 106, Acts of the 40th Legislature, 1st Called Session, 1927 (Article 1105b, Vernon's Texas Civil Statutes), through a joint

proceeding. If a joint proceeding is conducted, only one hearing is required, and the procedure required under this subchapter controls. The municipality may issue a single assessment certificate against a parcel of benefitted property and its owner in evidence of the total assessment made for all improvements made under this subchapter, including street improvements made in a joint proceeding, if the amount assessed for each class of improvements is set out separately and distinctly in the ordinance under which the assessment is made. (V.A.C.S. Art. 1110c, Sec. 18.)

Sec. 402.073. **RESTRICTIONS IN CERTAIN COUNTIES.** (a) In this section, “subdivided or platted property” means property that:

(1) has been platted under Chapter 212; or

(2) has been subdivided or platted by a map or plat that is filed for record in the office of any county clerk and that contains a dedication of the property for public use for a street or alley right-of-way or for a public utility easement.

(b) A municipality located in a county with a population of less than 700,000 may not make an assessment or other charge for the construction of improvements to a water or sewer system against any property or property owner, regardless of who initiates the request for the construction, unless the property is located in an area that has been subdivided or platted for at least the 10 years preceding the date of the assessment. (V.A.C.S. Art. 1110c, Sec. 19.)

Sec. 402.074. **AUTHORIZED INVESTMENT.** A certificate of special assessment issued under this subchapter, including a certificate issued under a joint proceeding under Section 402.072, is a legal and authorized investment for a bank, savings bank, trust company, savings and loan association, insurance company, sinking fund of a municipality, county, school district, or other political subdivision of this state, and for all other public funds of this state or an agency of this state. (V.A.C.S. Art. 1110c, Sec. 20.)

Sec. 402.075. **HOME-RULE MUNICIPALITY.** A home-rule municipality to which this subchapter applies may adopt plans and specifications for improvements as provided by this subchapter and may pay in cash to the contractor who is the successful bidder that part of the cost assessed against the owner and the benefitted property. The municipality may reimburse itself by levying an assessment against the benefitted property and its owner after notice and hearing as provided by this subchapter. The municipality may reimburse itself up to the amount of the enhancement in value represented by the benefits and as permitted under this subchapter and may issue assignable certificates in favor of the municipality for the assessment. The certificates are enforceable in the manner provided by Section 402.065. The municipality may use its own forces to make the improvements if the work may be performed more expeditiously and economically in that manner. (V.A.C.S. Art. 1110c, Sec. 22.)

[Sections 402.076–402.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 402.901. **RELOCATION OR REPLACEMENT OF WATER OR SEWER LATERALS.** (a) By ordinance, a municipality may contract for the relocation or replacement of a sanitation sewer lateral or water lateral that serves a residential structure on private property to connect the lateral to a new, renovated, or rebuilt sanitation main or water main constructed by the municipality. The municipality shall assess the cost of the relocation or replacement of the lateral against the property on which the lateral is located. A lien attaches to the property for the cost of the relocation or replacement.

(b) Before a municipality contracts under Subsection (a), the municipality must obtain the property owner’s written consent to the contract, to the relocation or replacement of the sewer lateral or water lateral, and to the assessment. The written consent must state that the person giving the consent is the property owner or the authorized representative of the property owner, must state the owner’s address, and must state that:

(1) the consent is given freely;

(2) the owner understands that as a result of the assessment a lien attaches to the property for the total cost of the relocation or replacement;

(3) the municipality will not pay any part of the relocation or replacement cost; and

(4) the owner has five years from the date the work is completed to repay the cost to the municipality.

(c) Before the contract for the work is made but after the municipality has received bids for the work, the municipality must give notice to the property owner. The notice must state the bid price accepted by the municipality for the completion of the work and that the contract price may be increased by not more than 10 percent because of changes without the written consent of the owner. The notice shall be given to the owner by personal delivery, or by depositing the notice in the United States mail, postage prepaid, addressed to the owner at the address in the owner's written consent.

(d) The municipality shall contract for the performance of the work in accordance with the law applicable to public improvements before work begins on the relocation or replacement of a lateral and after the municipality files the written consent of the property owner with the municipal clerk or municipal secretary. The contract may be changed as necessary for the successful completion of the work, but the contract price may not be increased by more than 10 percent because of those changes without the written consent of the owner as provided by Subsection (c).

(e) Unless the owner waives the right to reject the contract as provided by Subsection (f) on or before the 45th day after the date the notice is mailed or delivered, the owner may exercise that right by notifying the municipal clerk or municipal secretary of the withdrawal of consent. If the owner fails to withdraw consent during the 45-day period, the municipality may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner. After the expiration of the 45-day period, the owner may not withdraw the consent.

(f) The owner may waive the right to reject the contract by filing a sworn affidavit to that effect with the municipal clerk or municipal secretary. After the affidavit is filed, the municipality may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner.

(g) On receipt by the municipality of a certificate from the contractor certifying that all work has been completed in accordance with the contract, and on a finding by the municipality that the work has been properly completed in accordance with the applicable codes and ordinances of the municipality, the municipality may pay the contractor the cost of the completed work.

(h) When payment is made to the contractor, the municipality shall issue a certificate certifying that the work has been completed and that payment has been made under the contract. The municipality shall file the certificate with the county clerk of the county in which the property is located and shall deliver a copy of the certificate to the property owner.

(i) The property owner, within five years after the date of the issuance of the certificate under Subsection (h), must pay the municipality the amount that the municipality paid for the completed work as evidenced by the certificate, plus simple interest in an amount not to exceed 10 percent a year as set by the governing body of the municipality. On payment of the principal amount and accrued interest, the municipality shall issue a release of the assessment and lien. The release may be filed for record as provided by law.

(j) If the property owner does not pay the assessment during the five-year period, the municipality may enforce the lien on the property in the same manner in which it is authorized by law to enforce a lien for a paving or other assessment. (V.A.C.S. Art. 1110g.)

Sec. 402.902. OPERATION OF CERTAIN ELECTRIC LIGHT AND POWER SYSTEMS BY HOME-RULE MUNICIPALITIES. (a) If a home-rule municipality, whose charter authorizes it to furnish electric light and power service inside and outside the municipal boundaries, owned and operated a municipal electric system as of July 4, 1949,

and on that date owned and operated a rural electric system as a unit separate from the municipal system, and if the governing body of the municipality set up a rural electric system as a separate system, the bonds, mortgages, warrants, or other evidences of indebtedness are obligations of the system which they benefitted. The obligations of one system do not apply to or affect the other system.

(b) Any issued obligation of a system is not a debt of the municipality but is only a charge on the properties of the system and may not be considered in determining the ability of the municipality to issue bonds for any purpose authorized by law.

(c) The expense of operation and maintenance of each system is a first lien and charge against the income of the system. Operation and maintenance expenses include salaries, labor, repairs, cost of electrical energy, interest, repairs or extensions necessary for efficient service, and other proper operation and maintenance expenses.

(d) The governing body of the municipality shall charge and collect for each service a rate sufficient to:

(1) pay operation and maintenance expenses, depreciation, replacement, improvement, and interest;

(2) pay the principal of and interest on obligations issued against each system separately; and

(3) maintain any reserves required by the ordinance authorizing the issuance of the obligations.

(e) None of the income of a system may be used to pay any other debt, expense, or operation until the secured indebtedness is finally paid.

(f) Each evidence of indebtedness issued by a municipality to which this section applies must contain the clause: "The holder of the instrument hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." The evidence of indebtedness must be payable not more than 40 years from the date of the instrument and may bear interest at a rate not to exceed five percent a year. The instrument must be signed by the mayor and countersigned by the municipal secretary. Facsimile signatures of those officers may be printed on interest coupons attached to the instrument.

(g) A municipality to which this section applies is not required to submit an instrument issued against either of the systems to any public official of this state. The only approval required or authorized by this section is that of the governing body of the municipality. An obligation issued under this section is not contestable after issuance and delivery except for fraud and forgery.

(h) This section does not authorize a municipality to construct facilities or furnish electric power and energy to an area served with central station electric service as of July 4, 1949.

(i) An obligation issued under this section is exempt from state or local taxation.

(j) After a finding that a merger is in the best interests of its separately owned rural electric system and its municipal electric system, the governing body of a municipality to which this section applies may by ordinance order a merger of the systems. After the merger, all laws relating to the municipal electric system, including laws relating to authorization and issuance of bonds, apply to the merged system. (V.A.C.S. Art. 1110b, Secs. 1 (part), 2, 4.)

Sec. 402.903. AGREEMENT WITH CONSERVATION AND RECLAMATION DISTRICT. (a) A municipality may agree or contract with a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution for the supply and purchase of hydroelectric power or energy. The agreement or contract shall be for a period and contain the terms and conditions agreed on by the parties. The agreement or

contract is a valid and binding municipal obligation that is enforceable as provided by its terms.

(b) The agreement or contract may provide for the municipality to pay for the hydroelectric power or energy whether or not the power or energy is produced or delivered to the municipality. The agreement or contract may include provisions relating to acquiring, constructing, and equipping generation and transmission facilities to supply the power and energy, provisions relating to financing the costs of the generation and transmission facilities, and provisions that the agreement or contract continues in effect while any obligations specified in the agreement or contract, including refunding obligations, remain outstanding. The provisions shall be as specified in the agreement or contract.

(c) If provided in the agreement or contract, the amounts required to be paid by the municipality to the district under the agreement or contract are an operating expense of the electric system, or combined utility system of which the electric system is a part, in the manner provided for other operating and maintenance expenses of the electric system or combined utility system as provided by Article 1113, Revised Statutes.

(d) Notwithstanding any express or implied limitation on municipal power or purposes under any general or special law, charter provision, or ordinance, this chapter is authority for the performance of an agreement or contract entered into under this chapter. (V.A.C.S. Art. 1118q-1, Secs. 1, 2, 4 (part).)

Sec. 402.904. LEASE OF NATURAL GAS DISTRIBUTION SYSTEM BY CERTAIN MUNICIPALITIES. (a) A municipality that owns its natural gas distribution system and that has conducted an election before July 13, 1959, that resulted in a vote to sell the system may, by majority vote of the governing body, enter a contract to lease the system to any person. The municipality may also grant an option to the lessee or other person to purchase the system at a price specified or determined in the manner provided by the lease or option contract.

(b) If the municipality has any outstanding bonds that are payable from the revenues of the system, unless the municipality provides for the full payment of the bonds with interest to their maturities or to the date the bonds are to be redeemed before maturity, it may not enter a lease or option contract except under the conditions specified in the ordinance that authorized the bonds. (V.A.C.S. Art. 1268a.)

[Chapters 403-410 reserved for expansion]

SUBTITLE B. COUNTY WATER

CHAPTER 411. WATER CONTROL BY COUNTIES

- Sec. 411.001. FLOOD CONTROL PROPERTY; CONDEMNATION
- Sec. 411.002. JOINT PROJECT
- Sec. 411.003. PLANS AND PROGRAMS
- Sec. 411.004. SURVEY BY COUNTY WITH TAX VALUATION OF \$290 MILLION OR MORE
- Sec. 411.005. COOPERATION WITH UNITED STATES
- Sec. 411.006. GRANT OF SEAWALL RIGHT-OF-WAY

SUBTITLE B. COUNTY WATER

CHAPTER 411. WATER CONTROL BY COUNTIES

Sec. 411.001. FLOOD CONTROL PROPERTY; CONDEMNATION. (a) A county may acquire public or private real property, including easements and rights-of-way, for the purpose of building canals, drains, levees, and other improvements to provide for flood control and water outlets. The county has the right of eminent domain to make an acquisition under this section.

(b) An appeal from a finding and assessment of damages by special commissioners in a condemnation case does not act to suspend the work for which the property is acquired.

(c) A county may, if the commissioners court of the county considers it necessary, obtain the fee title to the property that is the subject of the condemnation. However, a county may not obtain through condemnation the fee title to property lawfully used or occupied by a public utility, railroad, canal, levee, or any other person devoting its property to a public use. This prohibition does not prevent the county from condemning an easement or a right-of-way in favor of the county.

(d) If the commissioners court considers it necessary to condemn an easement on the property of a person that also has the power of eminent domain, the expense of acquisition, construction, and maintenance of the flood control or drainage project is the obligation of the county, flood control district, or drainage district, as the case may be. (V.A.C.S. Art. 1581e, Secs. 1, 2, 3a.)

Sec. 411.002. **JOINT PROJECT.** (a) The commissioners court of a county may contract with a governmental unit, including a county, municipality, or other political subdivision, to jointly acquire a right-of-way or to jointly construct or maintain a canal, drain, levee, or other improvement for the purpose of providing flood control or drainage as it relates to flood control or for the purpose of providing and maintaining necessary outlets.

(b) The contract may contain any provisions that the governing bodies of the contracting entities consider necessary.

(c) The contracting entities may provide by contract, on mutually agreeable terms, that they shall jointly maintain the project or that one of them shall maintain the project under its exclusive direction and control while the other entity contributes to the expense of maintenance. (V.A.C.S. Art. 1581e, Sec. 3.)

Sec. 411.003. **PLANS AND PROGRAMS.** (a) The commissioners court of a county may contract with the federal soil conservation service, a state soil conservation district, the state extension service, a conservation and reclamation district, a drainage district, a water control and improvement district, a navigation district, a flood control district, a levee improvement district, or a municipality as provided by Section 4.103(e), County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), for the purpose of carrying out plans and programs for flood control and soil conservation.

(b) The contract may divide or delegate among the contracting parties the responsibility and cost of carrying out the plans and programs and may be for a specified term of years or may terminate when the plans or programs have been accomplished.

(c) The contract may provide that, if the contracting agency, district, or municipality issues bonds payable from and secured by revenues derived from the contract, the contract will continue in effect until the bonds, or any refunding bonds issued in their place, are fully paid. (V.A.C.S. Art. 2353c.)

Sec. 411.004. **SURVEY BY COUNTY WITH TAX VALUATION OF \$290 MILLION OR MORE.** In a county with a tax valuation of \$290 million or more according to the most recently approved county tax roll, the commissioners court of the county may spend not more than \$15,000 in any one year out of the general fund of the county to make a preliminary engineering survey relating to drainage, reclamation, conservation, levee improvement, or water control. (V.A.C.S. Art. 1644a.)

Sec. 411.005. **COOPERATION WITH UNITED STATES.** (a) The commissioners court of a county that borders Mexico, or of a county adjacent to a county that borders Mexico, may, in consideration of the benefits of flood control work performed by the United States, by resolution agree to:

(1) indemnify and hold harmless the United States and its officers, agents, or employees for damage or a claim for damage asserted by any person if:

(A) the damage or claim arises from or is connected with the action of the United States or its officers, agents, or employees in entering, occupying, constructing on, or exercising a right in or to land located in the county; and

(B) the action by the United States or its officers, agents, or employees is in connection with the construction, reconstruction, alteration, extension, improvement, maintenance, or operation of flood control works or works that are connected or incidental to flood control works;

(2) obtain any release or waiver of claims and provide evidence of the county's interest in land located in the county and needed for flood control works or works that are connected or incidental to flood control works, as required by the United States; and

(3) acquire and without monetary compensation convey to the United States any interest in land located in the county and needed for flood control works, on request of the United States.

(b) The commissioners court, county attorney, and county engineer shall do all things useful and necessary to carry out the provisions of the agreement.

(c) If the agreement provides for the conveyance of an interest in land to the United States, the county judge may convey the interest by warranty deed on behalf of the county according to the terms of the agreement. (V.A.C.S. Art. 7880-147v.)

Sec. 411.006. GRANT OF SEAWALL RIGHT-OF-WAY. (a) The commissioners court of a county by order may, if it considers it proper, donate and grant to the state or to a nonprofit eleemosynary institution incorporated under the laws of this state and operated for the benefit of the public any part of a seawall right-of-way acquired by the county.

(b) If the commissioners court determines that a seawall right-of-way should be donated, the county judge may convey the property in accordance with the order of the commissioners court. (V.A.C.S. Art. 6839a.)

CHAPTER 412. COUNTY WATER SUPPLY

SUBCHAPTER A. SALE OF SURPLUS WATER

- Sec. 412.001. DEFINITION
- Sec. 412.002. SALE OF SURPLUS WATER; USE OF PROCEEDS
- Sec. 412.003. ESTABLISHMENT OF RATE
- Sec. 412.004. TERM OF CONTRACT
- Sec. 412.005. USE OR RESALE

[Sections 412.006-412.010 reserved for expansion]

SUBCHAPTER B. WATER SUPPLY AND SEWAGE

- Sec. 412.011. MATAGORDA COUNTY
- Sec. 412.012. COUNTY WITH MORE THAN 900,000 RESIDENTS
- Sec. 412.013. WATER NEEDS OF CERTAIN COUNTIES WITH RIVER

CHAPTER 412. COUNTY WATER SUPPLY

SUBCHAPTER A. SALE OF SURPLUS WATER

Sec. 412.001. DEFINITION. In this subchapter, "county surplus water" means water that a county has acquired from an underground source for the county's water supply and that is not needed for county purposes. (V.A.C.S. Art. 2351, Subdiv. 20 (part), as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 412.002. SALE OF SURPLUS WATER; USE OF PROCEEDS. (a) The commissioners court of a county may sell and deliver county surplus water to:

(1) a public corporation of this state; or

(2) a political subdivision of this state, including a municipality, water control and improvement district, or fresh water supply district.

(b) A county shall credit money received from the sale of county surplus water to the general fund of the county and may spend the money for general county purposes. (V.A.C.S. Art. 2351, Subdiv. 20 (part), as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 412.003. ESTABLISHMENT OF RATE. The commissioners court may determine the rate at which county surplus water is sold. (V.A.C.S. Art. 2351, Subdiv. 20 (part), as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 412.004. TERM OF CONTRACT. A contract to sell county surplus water may not exceed a term of 40 years. (V.A.C.S. Art. 2351, Subdiv. 20 (part), as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

Sec. 412.005. USE OR RESALE. A buyer of county surplus water may use or resell the water for any lawful purpose. (V.A.C.S. Art. 2351, Subdiv. 20 (part), as amended by Ch. 1, Acts 69th Leg., 1st C.S., 1985.)

[Sections 412.006–412.010 reserved for expansion]

SUBCHAPTER B. WATER SUPPLY AND SEWAGE

Sec. 412.011. MATAGORDA COUNTY. (a) The Commissioners Court of Matagorda County may acquire, construct, or operate a water supply system or sewage system to serve areas of the county located outside the limits of a municipality.

(b) The county may enter a management or lease agreement with another public or private entity for the operation of a county water or sewage system acquired or constructed under this section.

(c) The county may apply for and receive grants or other assistance from a state or federal governmental entity to implement the purposes of this section. (V.A.C.S. Art. 2352g.)

Sec. 412.012. COUNTY WITH MORE THAN 900,000 RESIDENTS. (a) The commissioners court of a county with a population of more than 900,000 may enter a contract with a district created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution under which the district will provide and operate a water supply system or sewage system in areas of the county located outside the limits of a municipality.

(b) The commissioners court may distribute federal funds and state water conservation and development funds received by the county to a district that is a party to a contract under this section. Those funds may be used only for the construction, renovation, or maintenance of a water supply system or sewage system that is covered by a contract under this section.

(c) The acts performed and services provided under this section by a district must be within the scope of the powers, duties, and purposes of the district as provided by the laws under which the district was created.

(d) A contract that affects a municipality's extraterritorial jurisdiction as established by Chapter 42 must be submitted to and approved by the municipality.

(e) If a contract under this section affects an area not located within the limits of the contracting district, district funds may not be used to fulfill the contract.

(f) A county and a district that contract under this section must submit the contract to the Texas Water Commission for approval. The commission shall examine the contract to assure that the interests of the residents of the district are served and protected. A

county may not enter a contract that the commission determines would jeopardize the quality of service provided by a district to the persons residing in the district. The commission may submit suggested changes to the parties for inclusion in the contract before the commission gives its approval. (V.A.C.S. Art. 2352h.)

Sec. 412.013. WATER NEEDS OF CERTAIN COUNTIES WITH RIVER. (a) In a county with a river that flows through it or forms part of its boundary, the commissioners court of the county may, on voter approval, make expenditures from the general fund, or any other available county fund, to conduct an investigation and assemble information relating to the present and future water needs of the county inhabitants and to the feasibility of developing the water resources of the river for uses in the county.

(b) To obtain the voter approval required by Subsection (a), the commissioners court must order an election at which each qualified voter of the county is entitled to vote. The court shall determine the maximum cost of the proposed investigation and shall order the ballots for the election to be printed to provide for voting for or against the proposition: "Spending county funds for the purpose of making a survey of water resources, in an amount not to exceed \$_____ (the maximum amount determined by the court)."

(c) If a majority of the ballots cast at the election are in favor of the expenditure, the commissioners court may contract for professional services and incur other necessary expenses in an amount not to exceed the maximum amount fixed for this purpose. If a majority of the ballots cast are opposed to the expenditure, the commissioners court may not spend funds for this purpose, and another election on the proposition may not be held for two years. (V.A.C.S. Art. 1644a-1.)

[Chapters 413-420 reserved for expansion]

**SUBTITLE C. WATER PROVISIONS APPLYING TO MORE THAN ONE TYPE
OF LOCAL GOVERNMENT**

**CHAPTER 421. SEAWALLS AND LEVEES IN COASTAL
MUNICIPALITIES AND COUNTIES**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 421.001. COOPERATION AND CONTRACTS WITH UNITED STATES

[Sections 421.002-421.020 reserved for expansion]

SUBCHAPTER B. SEAWALL COMMISSION IN MATAGORDA COUNTY

**Sec. 421.021. ESTABLISHMENT OF SEAWALL COMMISSION BY COUNTY AND
MUNICIPALITY**

Sec. 421.022. MEMBERSHIP OF SEAWALL COMMISSION

Sec. 421.023. POWERS AND DUTIES OF SEAWALL COMMISSION

**SUBTITLE C. WATER PROVISIONS APPLYING TO MORE THAN ONE TYPE
OF LOCAL GOVERNMENT**

**CHAPTER 421. SEAWALLS AND LEVEES IN COASTAL
MUNICIPALITIES AND COUNTIES**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 421.001. COOPERATION AND CONTRACTS WITH UNITED STATES. (a) The commissioners courts and the municipal authorities of all counties and municipalities bordering on the coast of the Gulf of Mexico may cooperate and contract with the United States for grants, loans, or advance payments to carry out any of the powers or purposes prescribed by Title 118, Revised Statutes.

(b) The commissioners courts and municipal authorities may contribute and pay to the United States all or any part of the proceeds of bonds they have issued and sold under Title 118, in connection with any project undertaken by the federal government affecting or relating to the construction or maintenance of a seawall, boulevard, or other project authorized under Title 118.

(c) It is the purpose of this subchapter to confer on the commissioners courts and municipal authorities the fullest possible power of contract with regard to projects of common interest enumerated in Title 118, when these projects are approved by an act of the United States Congress. (V.A.C.S. Art. 6839f, Secs. 1, 2.)

[Sections 421.002–421.020 reserved for expansion]

SUBCHAPTER B. SEAWALL COMMISSION IN MATAGORDA COUNTY

Sec. 421.021. ESTABLISHMENT OF SEAWALL COMMISSION BY COUNTY AND MUNICIPALITY. (a) The Commissioners Court of Matagorda County and the governing body of a municipality in the county may by resolution establish a seawall commission to perform the functions described by Article 6830, Revised Statutes.

(b) The resolutions of the county and of the municipality must specify the date of the establishment of the commission.

(c) The jurisdiction of the commission covers only county commissioners precinct number three in Matagorda County as the precinct existed on December 31, 1959, but excludes the municipality of Bay City. (V.A.C.S. Art. 6830a, Secs. 1, 2(a).)

Sec. 421.022. MEMBERSHIP OF SEAWALL COMMISSION. (a) The seawall commission is composed of three members appointed for staggered terms of six years, with one member's term expiring every two years.

(b) The governing body of the municipality and the Commissioners Court of Matagorda County each shall appoint one member. The governing body and the commissioners court, acting jointly, shall appoint the third member. On the expiration of a member's term of office, the office shall be filled by the authority that originally appointed the member. If a vacancy occurs during the term, it shall be filled for the remainder of the term by the original appointing authority.

(c) The members of the commission annually shall elect one member as chairman. The chairman shall:

(1) preside over the meetings of the commission; and

(2) sign each contract, warrant, or other instrument made or issued by the commission. (V.A.C.S. Art. 6830a, Secs. 2(b), (c) (part); 4 (part).)

Sec. 421.023. POWERS AND DUTIES OF SEAWALL COMMISSION. (a) The commission may impose a tax on the real property within its jurisdiction.

(b) The tax rate is 10 cents for each \$100 valuation of the property.

(c) Tax revenue may be used only to finance functions of the commission.

(d) The commission shall submit an annual report to the county and the municipality, describing its financial condition and its operations during the preceding year, proposing a budget for the next year, and describing generally the work proposed for the next year.

(e) The commission may enter into a contract relating to the performance of any of the functions described by Article 6830, Revised Statutes.

(f) The commission may disburse funds set aside by the municipality and the county for the performance of its functions. (V.A.C.S. Art. 6830a, Secs. 3, 4 (part).)

[Chapters 422–430 reserved for expansion]

TITLE 14. PARKING AND TRANSPORTATION

SUBTITLE A. MUNICIPAL PARKING PROVISIONS

CHAPTER 431. MUNICIPAL AUTHORITY RELATING TO PARKING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 431.001. PARKING ON PRIVATE PROPERTY

[Sections 431.002–431.020 reserved for expansion]

SUBCHAPTER B. MUNICIPAL PARKING AUTHORITIES

- Sec. 431.021. DEFINITIONS
- Sec. 431.022. CREATION OF AUTHORITY
- Sec. 431.023. PROTEST PETITION
- Sec. 431.024. COMPOSITION OF BOARD
- Sec. 431.025. COMPENSATION AND LIABILITY
- Sec. 431.026. POWERS OF BOARD
- Sec. 431.027. POWERS OF AN AUTHORITY
- Sec. 431.028. CHARGES FOR USE OF FACILITY
- Sec. 431.029. FINANCING; BONDS
- Sec. 431.030. REVENUE BONDS
- Sec. 431.031. RESOLUTION AUTHORIZING ISSUANCE OF REVENUE BONDS
- Sec. 431.032. DEED OF TRUST
- Sec. 431.033. PLEDGED CONTRACT
- Sec. 431.034. RIGHTS AND REMEDIES OF BONDHOLDER
- Sec. 431.035. BONDS EXEMPT FROM TAXATION
- Sec. 431.036. ELIGIBILITY FOR INVESTMENT
- Sec. 431.037. MONEY
- Sec. 431.038. EXAMINATION OF ACCOUNTS
- Sec. 431.039. CONVEYANCE OF PROPERTY
- Sec. 431.040. ACQUISITION OF REAL PROPERTY
- Sec. 431.041. TAX-EXEMPT STATUS
- Sec. 431.042. CONTRACTS
- Sec. 431.043. NOTICE OF CLAIM
- Sec. 431.044. DURATION

TITLE 14. PARKING AND TRANSPORTATION

SUBTITLE A. MUNICIPAL PARKING PROVISIONS

CHAPTER 431. MUNICIPAL AUTHORITY RELATING TO PARKING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 431.001. PARKING ON PRIVATE PROPERTY. A municipality by ordinance may regulate the parking of motor vehicles on private property and may enforce the ordinance in the same manner that it enforces ordinances regulating parking in public no-parking zones, including the impoundment of offending vehicles. (V.A.C.S. Art. 10151.)

[Sections 431.002–431.020 reserved for expansion]

SUBCHAPTER B. MUNICIPAL PARKING AUTHORITIES

Sec. 431.021. DEFINITIONS. In this chapter:

- (1) "Authority" means a parking authority created under this subchapter.
- (2) "Board" means the governing body of an authority.
- (3) "Bond" means a note, bond, or other evidence of indebtedness or obligation issued by an authority.
- (4) "Construction" includes acquisition.

(5) "Deed of trust" means a deed of trust, indenture, or other similar agreement.

(6) "Federal agency" means the United States, the president of the United States, or a department, corporate agency, or instrumentality of the United States.

(7) "Improvement" includes extension and enlargement.

(8) "Parking facility" means a public lot, garage, parking terminal, or other structure or accommodation for the parking of motor vehicles off the street or highway, and includes equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in the parking of vehicles.

(9) "Project" means a structure, facility, or undertaking of an authority. (V.A.C.S. Art. 1269j-4.35, Sec. 1.)

Sec. 431.022. CREATION OF AUTHORITY. (a) The governing body of a municipality by ordinance may create an authority, which shall be called "City of (name of municipality) Parking Authority."

(b) A notice, including the text of the ordinance creating the authority, a synopsis of the articles of incorporation of the authority, and a reference to this subchapter, must be published once weekly for four consecutive weeks in a newspaper of general circulation in the municipality. The municipality shall file the ordinance with the secretary of state within 10 days after the date of the passage of the ordinance.

(c) The ordinance takes effect 60 days after the date of its last publication unless a protest petition has been filed with the clerk of the municipality. (V.A.C.S. Art. 1269j-4.35, Secs. 2(a), (b) (part).)

Sec. 431.023. PROTEST PETITION. (a) A protest petition must object to the adoption of the ordinance creating an authority and request that the ordinance be submitted to the voters of the municipality. It must be signed by a number of registered voters of the municipality equal to at least 10 percent of the number of votes cast at the most recent general municipal election.

(b) If a petition is filed, the municipality must determine whether the petition is valid within 10 days after the date of filing.

(c) The governing body of the municipality shall call an election to submit the ordinance to a vote on the next uniform election date authorized by Chapter 41, Election Code, that occurs more than 30 days after the date the municipality verifies the petition is valid.

(d) If a majority of the votes cast at the election are in favor of the ordinance, it takes effect on the certification of the results. If a majority of the votes cast are against the ordinance, it does not take effect. (V.A.C.S. Art. 1269j-4.35, Secs. 2(b) (part), (c).)

Sec. 431.024. COMPOSITION OF BOARD. (a) The powers of an authority are exercised by a board composed of five members who must be residents of the municipality.

(b) The presiding officer of the governing body of the municipality shall appoint the members of the board for two-year staggered terms.

(c) The terms of two members shall expire on July 1 of each even-numbered year and the terms of three members shall expire on July 1 of each odd-numbered year.

(d) The board members shall select from among themselves a chairman, a vice-chairman, and other officers as they determine.

(e) A vacancy that occurs more than 60 days before the expiration date of a term shall be promptly filled for the unexpired term by appointment by the presiding officer of the governing body of the municipality.

(f) A board member may be removed for cause following a hearing. Removal is by order of the presiding officer of the governing body of the municipality, with the concurrence of two-thirds of the members of the governing body of the municipality.

(g) An appointment must be confirmed by the governing body of the municipality. (V.A.C.S. Art. 1269j-4.35, Secs. 3(a), (b) (part), (c) (part).)

Sec. 431.025. COMPENSATION AND LIABILITY. (a) A board member may not receive compensation for services as a member but is entitled to payment for the necessary expenses incurred in the discharge of duties as a member.

(b) A board member is not liable personally on the bonds of an authority, and the rights of creditors are solely against the authority. (V.A.C.S. Art. 1269j-4.35, Secs. 3(b) (part), (c) (part).)

Sec. 431.026. POWERS OF BOARD. (a) The board manages the property and business of the authority.

(b) The board may adopt bylaws and rules governing the manner in which the business of the authority is conducted.

(c) The board may employ a secretary, an executive director, legal staff, technical experts, and other agents and employees that it requires. It may determine the qualifications and fix the compensation of those persons.

(d) The board may delegate to an agent or employee powers as it considers necessary to carry out the purposes of this subchapter, and the agent or employee is subject to the supervision and control of the board. (V.A.C.S. Art. 1269j-4.35, Sec. 3(c) (part).)

Sec. 431.027. POWERS OF AN AUTHORITY. (a) An authority may:

- (1) construct, improve, maintain, repair, or operate a project;
- (2) conduct research necessary for efficient operation of a parking facility;
- (3) establish a permanent coordinated system of parking facilities;
- (4) plan, design, locate, hold, construct, improve, maintain, operate, own, or lease land and facilities for the parking of vehicles;
- (5) sue and be sued, implead and be impleaded, and complain and defend in court;
- (6) adopt, use, and alter a corporate seal;
- (7) acquire, purchase, hold, lease as lessee, or use a franchise, property, or an interest in property, as necessary or desirable for carrying out the purpose of this subchapter;
- (8) sell, lease as lessor, exchange, transfer, or dispose of property or an interest in property;
- (9) contract and execute instruments necessary or convenient to carry on its business;
- (10) borrow money, accept a grant, and enter into a contract, lease, or other transaction with a federal agency, the state, a municipality, a corporation, or another authority;
- (11) exercise the power of eminent domain;
- (12) pledge, hypothecate, or otherwise encumber the revenue or receipts of the authority as security for the obligations of the authority;
- (13) enter into a contract of group insurance for the benefit of its employees and set up a retirement or pension fund for the employees;
- (14) on consent of the municipality, use an appointed officer, agent, employee, and facility of the municipality and pay the municipality for the use;
- (15) dedicate its real property to the public purposes for a street or highway;
- (16) invest that part of the proceeds received from the sale of bonds or other funds that the authority considers available in direct obligations of the United States; and
- (17) act as necessary to accomplish its purpose, the promotion of its business, and its general welfare.

(b) An authority may not pledge the credit or taxing power of the state or a political subdivision of the state. The obligations of an authority are not the obligations of the state or a political subdivision of the state. The state or a political subdivision of the state is not liable for the payment of the principal of or interest on the obligations.

(c) An authority may not sell goods or provide services other than those necessary for the parking of vehicles in a facility of the authority. (V.A.C.S. Art. 1269j-4.35, Secs. 4(a) (part), (b), (c); 11 (part).)

Sec. 431.028. CHARGES FOR USE OF FACILITY. (a) An authority may collect charges for the use of its facility at reasonable rates determined by the authority for the purpose of paying the expenses and obligations of the authority.

(b) A person questioning the reasonableness of a rate or charge of the authority may bring suit against the authority in a district court in the county in which the project is located. (V.A.C.S. Art. 1269j-4.35, Sec. 4(a) (part).)

Sec. 431.029. FINANCING; BONDS. (a) In addition to bonds provided for by this subchapter, an authority, subject to the specific authorization and approval of the municipality creating it, may finance the creation and establishment of parking facilities by one or more of the following methods:

- (1) parking fees or special charges derived from the use of parking facilities;
- (2) general fund appropriation;
- (3) parking meter revenue; and
- (4) a gift, bequest, devise, or grant-in-aid.

(b) A municipality establishing an authority under this subchapter, on a two-thirds vote of its governing body, may pay to the authority money necessary to:

- (1) acquire all or part of the land on which the authority intends to erect a parking facility;
- (2) construct all or part of a parking facility;
- (3) pay operating expenses of the authority and debt service on outstanding bonds of the authority; or
- (4) make payments into a reserve fund for the payment of the principal of and interest on indebtedness of the authority, as may be provided by a resolution of the authority authorizing the issuance of revenue bonds or a trust indenture securing revenue bonds.

(c) A municipality, to provide funds for use under Subsection (b) of this section, may issue general obligation bonds, secured by the faith and credit of the municipality, payable from unlimited ad valorem taxes on all of the real estate in the municipality subject to taxation, and may levy those taxes in an unlimited rate or amount.

(d) A municipality may guarantee revenue bonds of the authority issued under this subchapter by pledging its full faith and credit to the payment of the principal of and interest on the revenue bonds. The aggregate amount of general obligation bonds issued by a municipality under this subsection, the indebtedness guaranteed, and the taxes levied are in addition to, and not subject to the limitations of, the statutory debt or tax limitation of the municipality. The municipality may fund the guarantee by levying an ad valorem tax on real estate subject to taxation, not to exceed a rate of one-hundredth of one percent, or may use other money of the municipality available for this purpose.

(e) An agreement by a municipality to guarantee the revenue bonds of the authority, to maintain a reserve fund, or to pay debt service or operating expenses of the authority may be included in a contract with holders of revenue bonds of the authority and may be pledged by the authority to the payment of the revenue bonds. (V.A.C.S. Art. 1269j-4.35, Sec. 5.)

Sec. 431.030. REVENUE BONDS. (a) An authority by resolution may issue revenue bonds to finance a parking facility, the acquisition, construction, reconstruction, and repair of property related to the facility, and the necessary expenses of financing the facility and its operations.

(b) The total principal amount of the revenue bonds outstanding at one time may not exceed \$20 million.

(c) As provided by the board before the issuance of revenue bonds, the bonds:

(1) must be dated, must bear interest at a rate, and must mature at a time not to exceed 25 years from the date of their issuance and not to extend beyond the existence of the authority; and

(2) may be made redeemable before maturity at a particular price and under particular terms.

(d) The board shall determine the form of the revenue bonds, including interest coupons, if any, and the manner of execution of the bonds. The board shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at a bank or trust company in the state.

(e) The revenue bonds are negotiable instruments under state law and may be sold in the manner and for the price determined to be in the best interests of the municipality.

(f) The revenue bonds are not a pledge of the faith and credit of a municipality or the state but are payable only from revenues under this subchapter. The face of the bonds must state this. (V.A.C.S. Art. 1269j-4.35, Secs. 6(a), (b), (f).)

Sec. 431.031. RESOLUTION AUTHORIZING ISSUANCE OF REVENUE BONDS.

(a) A resolution authorizing issuance of revenue bonds must pledge the revenues to be received from the parking facility for which the bonds are issued. The resolution may pledge parking meter revenues for this purpose and may provide for mortgaging the parking facility as additional security. The resolution may contain other provisions for protecting and enforcing the rights and remedies of a bondholder as permitted by this subchapter and may contain a limitation on the issuance of additional revenue bonds as the board considers proper.

(b) An expense incurred in carrying out the provisions of the resolution may be treated as a part of the cost of operation of the facility.

(c) The resolution may contain provisions, which if in the resolution must be included as part of the contract with a bondholder, relating to:

(1) the construction, improvement, operation, maintenance, and repair of a project and to the authority's duties regarding those actions;

(2) limitations on the purpose for which the proceeds of the revenue bonds or of a loan or grant from a federal agency may be used;

(3) the rate of a toll and other charge for use of a facility of the authority or a service provided by the authority;

(4) the setting aside, regulation, and disposition of a reserve or sinking fund; and

(5) any other agreement with the bondholder. (V.A.C.S. Art. 1269j-4.35, Secs. 6(c), (d).)

Sec. 431.032. DEED OF TRUST. An authority may enter into a deed of trust as security for revenue bonds and may assign and pledge all or part of the revenues or receipts of the authority under the agreement. The deed of trust may contain provisions relating to:

(1) the construction, improvement, operation, maintenance, and repair of a project and to the authority's duties regarding those actions;

(2) the application and safeguarding of funds under the control of the authority;

(3) the rights and remedies of the trustee and bondholders, including a restriction on a right of action of bondholders; and

(4) terms of the revenue bonds or the resolution authorizing their issuance. (V.A.C.S. Art. 1269j-4.35, Sec. 6(e).)

Sec. 431.033. PLEDGED CONTRACT. (a) A contract between the municipality and an authority may be pledged by the authority to secure its bonds. A pledged contract may not be modified except as provided by the terms of the pledge. The governing body of the municipality may authorize the contract without further authorization.

(b) A payment required by the municipality under the contract may be made even if the payment is not provided for in the budget of the municipality, but the payment shall be included in subsequent budgets of the municipality. (V.A.C.S. Art. 1269j-4.35, Sec. 10(d).)

Sec. 431.034. **RIGHTS AND REMEDIES OF BONDHOLDER.** (a) The rights and remedies of a bondholder under this section are in addition to any rights and remedies lawfully granted to the bondholder by a resolution providing for the issuance of bonds or by a deed of trust under which bonds are issued.

(b) If an authority fails to pay the principal of or interest on a bond on or before the 60th day after the date payment is due, violates this chapter, or breaches another agreement with a bondholder, the holders of 25 percent of the aggregate principal amount of the bonds outstanding may appoint a trustee to represent the bondholders. To appoint a trustee, the bondholders must file in the office of the recorder of deeds of the county in which the authority is located an instrument that is proved or acknowledged in the same manner as required by law for a deed to be recorded.

(c) The trustee appointed under this section or a trustee under a deed of trust under this subchapter may, and on written request of the holders of 25 percent of the aggregate principal amount of the bonds outstanding, unless provided otherwise by the deed of trust, shall, in the trustee's own name:

- (1) bring an action to enforce the rights of the bondholders;
- (2) bring suit on the bonds;
- (3) require the authority to account as if it were the trustee of an express trust for the bondholders; or
- (4) sue to enjoin violations of law or the rights of the bondholders.

(d) By notice in writing to the authority the trustee may declare bonds due and payable. If the authority cures all defaults, the trustee, with the consent of the holders of 25 percent of the aggregate principal amount of the bonds then outstanding, unless provided otherwise by the deed of trust, may rescind the declaration.

(e) A district court in the county in which the authority is located has jurisdiction of an action by the trustee. A trustee appointed or acting under a deed of trust is entitled to the appointment of a receiver, who may enter and take possession of all or part of the facilities of the authority and the revenues or receipts that may be applicable to the payment of the bonds in default, and who may operate and maintain the facilities and collect and receive rent and other revenues of the facilities. The receiver shall deposit the money in a separate account and apply it in the manner the court directs. In an action by the trustee, any fees, attorney's fees, and expenses of the trustee and the receiver and the costs and disbursements allowed by the court are a first charge on the revenues and receipts from the facilities of the authority that are applicable to the payment of the bonds in default. The trustee may exercise the powers necessary or appropriate for carrying out the trustee's functions under this section or incident to the general representation of the bondholders in the enforcement and protection of their rights.

(f) This subchapter does not authorize a bondholder or a receiver or trustee appointed under this subchapter to sell, assign, mortgage, or otherwise dispose of the assets of the authority. A receiver may only operate and maintain the facilities of the authority as the court directs. (V.A.C.S. Art. 1269j-4.35, Sec. 7.)

Sec. 431.035. **BONDS EXEMPT FROM TAXATION.** Revenue bonds issued under this subchapter, transfer of the bonds, income from the bonds, and a profit made on the sale of the bonds are free from taxation by the state or a subdivision of the state. (V.A.C.S. Art. 1269j-4.35, Sec. 8.)

Sec. 431.036. **ELIGIBILITY FOR INVESTMENT.** (a) A bond is a security in which a public officer or body of the state or a municipality or municipal subdivision, insurance company, bank, trust company, savings and loan association, or investment company may invest.

(b) A bond is not eligible for the investment of funds of a trust, estate, or guardianship under the control of an individual fiduciary.

(c) A bond may be deposited with a public officer or body of the state or a municipality or municipal subdivision for any purpose for which a bond of the state may be deposited. (V.A.C.S. Art. 1269j-4.35, Sec. 15.)

Sec. 431.037. **MONEY.** Money of an authority shall be paid to the treasurer of the authority who shall deposit it in a separate account in a bank or trust company. The money may be paid out on the warrant or other order of the chairman of the authority or of another person designated by the authority. (V.A.C.S. Art. 1269j-4.35, Sec. 9(a).)

Sec. 431.038. **EXAMINATION OF ACCOUNTS.** (a) At least once a year, the authority shall have a certified public accountant conduct an audit of its books, accounts, and other records. A copy of the audit shall be delivered to the municipality creating the authority.

(b) If the authority fails to make the required audit, an auditor or accountant designated by the municipality may examine, at the expense of the authority, the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and other matters relating to its finances, operation, and affairs.

(c) The attorney general may examine the books, accounts, and other records of an authority.

(d) A concise financial statement shall be published annually in a newspaper of general circulation in the municipality in which the principal office of the authority is located. If the publication is not made by the authority, the municipality shall publish the statement at the expense of the authority. (V.A.C.S. Art. 1269j-4.35, Secs. 9(b), (c).)

Sec. 431.039. **CONVEYANCE OF PROPERTY.** (a) The municipality, by resolution or an instrument authorized by a resolution, may convey property to an authority for use in a project.

(b) The legal title to real property conveyed remains with the municipality, but the authority may, until it ceases to exist, use the property.

(c) Legal title to personal property conveyed passes to the authority. (V.A.C.S. Art. 1269j-4.35, Secs. 10(a), (b).)

Sec. 431.040. **ACQUISITION OF REAL PROPERTY.** (a) The municipality may acquire real property for a project or for building or improving a road leading to a project.

(b) The municipality may close a road as is necessary or convenient for the purposes of this subchapter.

(c) An authority may, at its own expense, acquire real property for a project in the name of the municipality by purchase or condemnation under the laws relating to the condemnation of land by the municipality. The authority may, until it ceases to exist, use the property.

(d) If an authority determines that real property is no longer required for a project, and the property was acquired at the expense of the municipality, the authority may give the use of the property to the municipality. If the property was acquired at the expense of the authority, the authority may sell, lease, or otherwise dispose of the property and may use the proceeds for the purposes of this subchapter. (V.A.C.S. Art. 1269j-4.35, Secs. 10(c), (e), (f).)

Sec. 431.041. **TAX-EXEMPT STATUS.** Unless otherwise specifically provided by statute or in the ordinance or resolution creating an authority, property of an authority is exempt from taxation. (V.A.C.S. Art. 1269j-4.35, Sec. 11 (part).)

Sec. 431.042. **CONTRACTS.** An authority shall let a contract in the manner, to the extent practicable, provided by law for contracts of the municipality, except that if the estimated expense of a contract does not exceed \$5,000, the contract may be entered into without public bidding. (V.A.C.S. Art. 1269j-4.35, Sec. 12.)

Sec. 431.043. **NOTICE OF CLAIM.** (a) In an action against an authority for damages, injury to property, or personal injury or death, a person making a claim shall notify the authority of the claim, reasonably describing the damage or injury and stating the time, manner, and place of the incident from which the claim arose. The notice must be given within six months after the date of the incident.

(b) Notice need not be given if an authority has actual notice of the damage or injury. (V.A.C.S. Art. 1269j-4.35, Sec. 13.)

Sec. 431.044. DURATION. (a) An authority ceases to exist 25 years after the date it is created, except that the municipality that created the authority may extend its existence for not more than 10 years by filing a certified ordinance with the secretary of state.

(b) An authority continues to exist until its liabilities and bonds issued by its board or by the municipality on its behalf have been paid.

(c) When an authority ceases to exist, its rights and property pass to the municipality. (V.A.C.S. Art. 1269j-4.35, Sec. 14.)

[Chapters 432-444 reserved for expansion]

SUBTITLE B. COUNTY PARKING AND TRANSPORTATION PROVISIONS

CHAPTER 445. MISCELLANEOUS PARKING AND TRANSPORTATION PROVISIONS AFFECTING COUNTIES

SUBCHAPTER A. PARKING

Sec. 445.001. PARKING ON COUNTY PROPERTY

Sec. 445.002. REGULATION OF COURTHOUSE PARKING LOTS IN CERTAIN COUNTIES

Sec. 445.003. PARKING LOTS AND PARKING GARAGES IN CERTAIN COUNTIES

[Sections 445.004-445.010 reserved for expansion]

SUBCHAPTER B. AIRPORTS

Sec. 445.011. USE OF EQUIPMENT ON AIRSTRIPS BY CERTAIN COUNTIES

SUBTITLE B. COUNTY PARKING AND TRANSPORTATION PROVISIONS

CHAPTER 445. MISCELLANEOUS PARKING AND TRANSPORTATION PROVISIONS AFFECTING COUNTIES

SUBCHAPTER A. PARKING

Sec. 445.001. PARKING ON COUNTY PROPERTY. (a) The commissioners court of a county by order may regulate the parking of vehicles on property owned or leased by the county.

(b) The commissioners court may adopt rules under this section to:

- (1) limit the use of parking spaces to certain vehicles or types of vehicles;
- (2) limit the time that a vehicle may be parked in a specific space or area; or
- (3) prohibit the parking of vehicles in certain areas.

(c) If a county restricts or prohibits parking in a place, it shall erect an appropriately worded sign at the place to inform a driver of a vehicle of the restriction or prohibition. The county is not required to erect a sign to indicate that parking is prohibited on a lawn or other area that does not appear to be a place intended for use as a parking area.

(d) A county may provide for towing and storing a vehicle at the owner's expense if it is parked in violation of a rule adopted under this section. The county may not provide for towing a vehicle that is parked under circumstances that create a defense to prosecution under Subsection (e).

(e) A person commits an offense if the person parks a vehicle in violation of a rule adopted under this section. An offense under this section is a Class C misdemeanor. It is a defense to prosecution under this section that the place where the person parked is an area in which a sign is required under Subsection (c) and that there was no sign in place at the time the person parked. (V.A.C.S. Art. 2372s-3.)

Sec. 445.002. REGULATION OF COURTHOUSE PARKING LOTS IN CERTAIN COUNTIES. (a) This section applies to a county with a population of:

- (1) 13,350 to 13,400;

- (2) 16,500 to 16,700;
- (3) 17,400 to 17,450;
- (4) 31,000 to 31,400;
- (5) 37,700 to 38,000;
- (6) 170,000 to 225,000; or
- (7) 235,000 or more.

(b) The commissioners court of the county may purchase necessary equipment and may make and enforce rules for parking in a county-owned or county-leased parking lot in, under, adjacent to, or near the county courthouse.

(c) The commissioners court and the governing body of the municipality in which the courthouse is located may contract for enforcement of the rules.

(d) The sheriff's department of the county may enforce the rules.

(e) A person commits an offense if the person violates a parking rule adopted under this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$1 nor more than \$20. (V.A.C.S. Arts. 2372s-1, 2372s-4.)

Sec. 445.003. PARKING LOTS AND PARKING GARAGES IN CERTAIN COUNTIES. (a) A county with a population of 150,000 or more may construct, enlarge, equip, and operate a parking lot or parking garage adjacent to or near the county courthouse.

(b) The county may lease the parking lot or parking garage to a person on terms considered appropriate by the commissioners court of the county.

(c) To exercise a power granted by this section, the commissioners court of the county may appropriate and spend money from the general fund or the permanent improvement fund of the county. (V.A.C.S. Art. 2372s-2.)

[Sections 445.004–445.010 reserved for expansion]

SUBCHAPTER B. AIRPORTS

Sec. 445.011. USE OF EQUIPMENT ON AIRSTRIPS BY CERTAIN COUNTIES. (a) In this section, "airstrip" means:

(1) an area of land or water used or intended for use for the landing and takeoff of aircraft; and

(2) an appurtenant area used or intended for use for an airport building, other airport facility, or right-of-way.

(b) A county with a population of 24,600 to 24,700 may authorize the use of county equipment, machinery, and employees to construct, establish, and maintain a public airstrip in the county.

(c) The county shall pay the cost of the use of the county equipment, machinery, and employees from appropriate county funds. (V.A.C.S. Art. 1581d-1.)

SECTION 2. CONFORMING AMENDMENT. Section 20-a, Chapter 206, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 689a-20, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20-a. Nothing contained in this Act shall be construed as precluding the Legislature from making changes in the budget for State purposes [~~or prevent the County Commissioners' Court from making changes in the budget for county purposes or prevent the governing body of any incorporated city or town from making changes in the budget for city purposes,~~] or as preventing [prevent] the trustees or other [school] governing body of a school district from making changes in the school district budget for school purposes; and the duties required by virtue of this Act of State[, County, City] and School Officers or Representatives shall be performed for the compensation now provided by law to be paid said officers respectively.

SECTION 3. CONFORMING AMENDMENT. Section 20, Chapter 206, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 689a-21, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. Any officer, employee or official of the State Government [~~or of the County Government,~~] or of any school district who shall refuse to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or be imprisoned in the county jail for not less than one month, or more than twelve months, or shall be punished by both such fine and imprisonment.

SECTION 4. CONFORMING AMENDMENT. Section 1, Chapter 560, Acts of the 65th Legislature, Regular Session, 1977 (Article 999e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) The state [~~and every incorporated city or town~~] shall provide for insuring peace officers and fire fighters in its employ against liability to third persons arising out of the operation, maintenance, or use of any motor vehicle owned or leased by the state[, ~~city or town~~].

(b) The state [~~and any incorporated city or town~~] may elect to be self-insured or to reimburse the actual cost of extended automobile liability insurance endorsements obtained by its peace officers and fire fighters on the individually owned automobile liability insurance policies of such peace officers and fire fighters. Such extended endorsement shall be in amounts not less than those required under this Act and shall extend the coverage to include the operation and use of city vehicles by such peace officers or fire fighters in the scope of their employment. Provided, however, that the state [~~and any incorporated city or town which elects to use the reimbursement method authorized under this subsection~~] may require that all peace officers and fire fighters who operate and use motor vehicles present proof that an extended coverage endorsement has been purchased and that such extended coverage is current.

SECTION 5. CONFORMING AMENDMENT. (a) If the proposed Title 3 of the Tax Code is enacted by the 70th Legislature, Regular Session, 1987, and becomes law, Article 1015, Revised Statutes, is amended to read as follows:

Art. 1015. OTHER POWERS. The governing body shall also have power:

1. Promotion of health.—To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

2. Quarantine regulations.—To make regulations to prevent the introduction of contagious disease into the city; to make quarantine laws for that purpose, and to enforce them within the city and within ten miles thereof.

3. Joint sanitary regulations.—To co-operate with the commissioners' court of the county in which the municipality is situated in making such improvements as may, by it and said court, be deemed necessary to improve the public health and promote efficient sanitary regulations, and to arrange for the construction of, and payment for, said improvements.

4. Hospitals.—To erect or establish one or more hospitals, and control and regulate the same, and to prohibit or to permit and regulate the establishment of private hospitals.

5. Food inspection, etc.—To regulate the inspection of beef, pork, flour, meal, salt and other provisions; to appoint weighers, gaugers and inspectors, and to prescribe their duties and regulate their fees.

6. [~~Sale of bread.—To regulate the weight and quality of the bread to be sold or used within the city.~~

[~~7.—Butchers.—To make such rules and regulations in relation to butchers as they may deem necessary and proper.~~

[~~8.—Unclean establishments.—To compel the owner or occupant of any grocery, soap, tallow, or chandler establishment, or blacksmith shop, tannery, stable, slaughterhouse, sewers, privy, hide house or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.~~

[~~9.—Location of establishment.—To direct the location of business, tanneries, blacksmith shops, foundries, livery stables and any manufacturing establishments; to direct the location and regulate the management and construction of, restrain, abate and prohibit~~

within the city limits, slaughtering establishments and hide houses or establishments for making soap, for steaming or rendering lard, tallow, offal and such other substances as may be rendered; and all other establishments or places where any nauseous, offensive or unwholesome business may be carried on.

[10. ~~Drains, sinks, etc.—To require the owner of private drains, sinks and privies to fill up, cleanse, drain, alter, relay, repair, fix or improve the same as may be ordered by any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any such order, the party so failing shall be liable to fine. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvements made on account of the owner thereof. All costs, charges and expenses shall be a lien on the property, on the filing of a memorandum by the mayor, under the seal of the corporation thereof, and recording the same with the clerk of the district court. The city may enforce said lien and institute suit in the corporate name and obtain judgment against said party for the amount so due as aforesaid in any court having jurisdiction.~~

[11. ~~Nuisances.—To abate and remove nuisances and to punish the authors thereof by fine, and to define and declare what shall be nuisances and authorize and direct the summary abatement thereof; and to abate all nuisances which may injure or affect the public health or comfort in any manner they may deem expedient.~~

[12.] ~~Dead animals, etc.—To prevent any person from bringing, depositing or having within the limits of said city any dead carcass, or other offensive or unwholesome substance or matter, and to require the removal or destruction by any person who shall have placed or caused to be placed upon or near his premises, or elsewhere, of any substance or matter, filth, or any putrid or unsound beef, pork or fish, hides or skins of any kind; and, on his default, to authorize the removal or destruction thereof by some officer of the city, and to require the owner of any dead animal to remove the same to such place as may be designated.~~

7. [13.] ~~Burial of dead, etc.—To regulate the burial of the dead; to purchase, establish and regulate one or more cemeteries; to regulate the registration of marriages; and to direct the returning and keeping of bills of mortality.~~

[14. ~~Driving animals in city.—To prevent, regulate and control the driving of cattle, horses and other animals into or through the city.~~

[15. ~~Dogs.—To tax, regulate or restrain and prohibit the running at large of dogs and to authorize their destruction when at large contrary to ordinances, and to impose penalties for violation of such ordinances.~~

[16. ~~Pounds.—To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, and goats, and to authorize the distraining, impounding and sale of the same for the costs of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold and to impose penalties on the owners thereof for the violation of any ordinance.~~

[17. ~~Breeding animals.—To pass necessary ordinances to prevent any person, corporation or association of individuals from keeping for breeding purposes a jack, bull or stallion within the corporate limits of such city or town.~~

[18. ~~Control of police.—To create, establish and regulate the police of the city; to appoint watchmen and policemen, and to prescribe their duties and powers and compensation.~~

[19. ~~Workhouses.—To erect and establish one or more workhouses or houses of correction, within or without the city limits, make all necessary rules and regulations therefor, and appoint all necessary keepers or assistants. In such workhouse or house of correction may be confined all vagrants and disorderly persons, who may be committed by the mayor or recorder, and any person who shall fail or refuse to pay the fine or costs imposed for any offense may, instead of being committed to jail, be kept therein.~~

[20. ~~Breach of peace, etc.—To prevent all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarreling, using abusive, obscene, profane or insulting language and all disorderly conduct, and punish all persons thus offending.~~

~~[21. Public disturbances.—To suppress and prevent any riot, affray, noise, disturbance or disorderly assembly in any public or private place within the city.~~

~~[22. Noises and annoyances.—To prohibit and restrain the firing of firecrackers, guns and pistols, use of velocipedes, or use of any pyrotechnic or any other amusements or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, practices and performances tending to the collection of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise.]~~

8. [23.] Obstructions on public ways, etc.—To prevent the incumbering of the streets, alleys, sidewalks, and public grounds, with any vehicle whatsoever, boxes, lumber, posts, awnings, signs, or any other substance or material whatever, to compel persons to keep all weeds, filth or any kind of rubbish from the sidewalks and streets and gutters in front of their premises, and to compel the owners of property to fill up, grade, gravel and otherwise improve the sidewalks in front of same.

~~[24. Dangerous buildings, etc.—To order, whenever in the opinion of the city council, any building, fence, shed, awning or any erection of any kind or any part thereof is liable to fall down and endanger persons or property, any owner or agent of the same, or any owner or occupant of the premises on which such building, shed, awning or other erection stands or to which it is attached, to take down and remove the same, or any part thereof, within such time as they may direct; and to punish by fine and imprisonment, or either, any neglect, failure or refusal to comply therewith. The city council shall have power to remove the same at the expense of the city, on account of the owner of the property or premises, and assess the expenses on the land on which it stood or to which it was attached, and shall, by ordinance, provide for such assessment, the mode and manner of giving notice and the means of recovering any such expenses.]~~

9. [25.] Bridges, sewers, etc.—To establish, erect, construct, regulate and keep in repair, bridges, culverts, and sewers, sidewalks and crossways, and to regulate the construction and use of the same, and to abate any obstructions or encroachments thereon; and the cost of construction of sidewalks shall be defrayed by the owner of the lot, or part of lot or block, fronting on the sidewalk. The cost of any sidewalk constructed by the city shall be collected, if necessary, by the sale of the lot, or part of lot or block on which it fronts, together with the cost of collection, in such manner as the city council may by ordinance provide. A sale of any lot or part of lot or block to enforce collection of costs of sidewalks shall convey a good title to the purchaser. The balance of proceeds of such sale, after paying the amount due the city and costs of sale, shall be paid to the owner.

10. [26.] Street railways.—To compel street railway companies to keep their roads in repair, and to make them conform to the grades of the streets upon which their tracks may be laid, whenever said streets shall have been graded by the city, and to restrain the rate of speed and to compel such railroads to supply ample accommodation for the safe and convenient travel of the people on the street where their track may run. The city council may enforce these regulations by proper ordinances with suitable penalties.

11. [27.] Railway companies.—To direct and control the laying and constructing of railroad tracks, turnouts and switches, or prohibit the same in the streets, avenues and alleys, unless the same have been authorized by law, and the location of depots within the city; to require that railroad tracks, turnouts and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues and alleys and that sufficient space shall be left on either side of a track for the safe and convenient passage of teams, carriages and other vehicles, and persons; to require railroad companies to keep in repair the streets, avenues or alleys through which their track may run, and, if ordered by the city council, to construct and keep in repair, suitable crossings at the intersection of streets, avenues and alleys, and ditches, sewers and culverts, when the city council shall deem it necessary; to direct the use and regulate the speed of locomotive engines in said city, or to prevent and prohibit the use or running of the same within the city.

[41.—Appropriations.—To appropriate money, and provide for the payment of debts and expenses of the city.

[42.—Special funds.—To provide by ordinance special funds for special purposes, and to make the same disburseable only for the purpose for which the fund was created. Any officer of the city misappropriating said special fund shall be deemed guilty of malfeasance in office, and shall, on complaint of any one interested in said funds misappropriated, be removed from office, and be incapable thereafter to hold any office in said city.

[43.—Improvements.—To appropriate so much of the revenues of the city emanating from whatever source, for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the public markets and streets, erecting and conducting city hospitals, city hall, waterworks, and so forth, as they may from time to time deem expedient; and in furtherance of these objects, to borrow money upon the credit of the city.]

(b) If the proposed Title 3 of the Tax Code is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Article 1015, Revised Statutes, is amended to read as follows:

Art. 1015. OTHER POWERS. The governing body shall also have power:

1. Promotion of health.—To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

2. Quarantine regulations.—To make regulations to prevent the introduction of contagious disease into the city; to make quarantine laws for that purpose, and to enforce them within the city and within ten miles thereof.

3. Joint sanitary regulations.—To co-operate with the commissioners' court of the county in which the municipality is situated in making such improvements as may, by it and said court, be deemed necessary to improve the public health and promote efficient sanitary regulations, and to arrange for the construction of, and payment for, said improvements.

4. Hospitals.—To erect or establish one or more hospitals, and control and regulate the same, and to prohibit or to permit and regulate the establishment of private hospitals.

5. Food inspection, etc.—To regulate the inspection of beef, pork, flour, meal, salt and other provisions; to appoint weighers, gaugers and inspectors, and to prescribe their duties and regulate their fees.

6. [Sale of bread.—To regulate the weight and quality of the bread to be sold or used within the city.

[7.—Butchers.—To make such rules and regulations in relation to butchers as they may deem necessary and proper.

[8.—Unclean establishments.—To compel the owner or occupant of any grocery, soap, tallow, or chandler establishment, or blacksmith shop, tannery, stable, slaughterhouse, sewers, privy, hide house or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

[9.—Location of establishment.—To direct the location of business, tanneries, blacksmith shops, foundries, livery stables and any manufacturing establishments; to direct the location and regulate the management and construction of, restrain, abate and prohibit within the city limits, slaughtering establishments and hide houses or establishments for making soap, for steaming or rendering lard, tallow, offal and such other substances as may be rendered; and all other establishments or places where any nauseous, offensive or unwholesome business may be carried on.

[10.—Drains, sinks, etc.—To require the owner of private drains, sinks and privies to fill up, cleanse, drain, alter, relay, repair, fix or improve the same as may be ordered by any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any such order, the party so failing shall be liable to fine. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvements made on account of the owner thereof. All costs, charges and expenses shall be a lien on the property, on the filing of a memorandum by

12. [28.] Unsafe driving.—To prevent, prohibit and suppress horse-racing, immoderate riding or driving in the streets; to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing or remaining in the streets.

13. [29.] Light and gas.—To provide for lighting the streets and erecting lamp posts therein, and regulating the lighting thereof, and from time to time create, alter or extend lamp districts, to exclusively regulate, direct and control the laying and repairing of the gas pipes and gas fixtures in the streets, alleys, sidewalks and elsewhere.

[30.—Water system.—To provide, or cause to be provided, the city with water; to make, regulate and establish public wells, pumps and cisterns, hydrants and reservoirs in the streets or elsewhere within said city or beyond the limits thereof, for the extinguishment of fires and the convenience of the inhabitants, and to prevent the unnecessary waste of water. Any city or town owning, or that may hereafter own, its water system and plant, shall not lease or sell the same without first submitting the question of such proposed lease or sale to a vote of the qualified voters who are property taxpayers of such town or city as shown by the last preceding tax rolls, at a general election, or at one held for that especial purpose, nor unless a majority of those voting shall vote in favor thereof. Before submitting such question to a vote as aforesaid, the proposed contract of lease or sale shall be distinctly set forth in the form of an ordinance or contract, and shall be filed with the city or town secretary or clerk at least twenty days prior to the day of the election, and shall at all times be subject to inspection by the people of such city.]

[31.—Market house.—To establish or erect, or cause to be established or erected, markets and market houses; designate, control and regulate market places and privileges; inspect and determine the mode of inspecting meat, fish, vegetables and all produce and every article and thing therein brought for sale.]

14. Cemeteries. [32.—Parks, etc.]—To provide for inclosing, regulating and improving [all public grounds and] cemeteries belonging to the city[, and to direct and regulate the planting and preserving of ornaments and shade trees in the streets, sidewalks or public grounds].

[33.—Libraries.—To establish a free library in such city or town; to adopt rules and regulations for the proper management thereof, and to appropriate such part of the revenues of such city or town for the management and increase of such free library as the municipal government of such city or town may determine.]

[34.—Street car taxes.—To assess and collect the ordinary municipal taxes upon street railways.]

[35.—Trade taxes.—To tax all trades, professions, occupations and callings, the taxing of which is not prohibited by the Constitution of this State; which tax shall not be construed to be a tax on property.]

[36.—Chauffeurs, porters, etc.—To license, tax and regulate hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and provide for their protection and make it a misdemeanor to attempt to defraud them of any legal charge for services rendered, and to regulate, license and restrain runners for railroads, stages and public houses.]

[37.—Peddlers, theaters, etc.—To license, tax and regulate or suppress and prevent hawkers, peddlers, pawnbrokers and keepers or other exhibitions, shows and amusements.]

[38.—Circuses, etc.—To license, tax or regulate theaters, circuses, the exhibitions of common showmen, shows of any kind, and the exhibition of natural and artificial curiosities, caravans, menageries and musical exhibitions and performances.]

[39.—Licenses and fees.—To authorize the proper officer of the city to grant and issue licenses, and to direct the manner of issuing and registering thereof, and the fees to be paid therefor. No license shall be issued for a longer period than one year, and shall not be assignable except by permission of the city council.]

[40.—Finances and property.—To manage and control the finances and all property, real and personal and mixed, belonging to the corporation.]

~~the mayor, under the seal of the corporation thereof, and recording the same with the clerk of the district court. The city may enforce said lien and institute suit in the corporate name and obtain judgment against said party for the amount so due as aforesaid in any court having jurisdiction.~~

~~[11. Nuisances.—To abate and remove nuisances and to punish the authors thereof by fine, and to define and declare what shall be nuisances and authorize and direct the summary abatement thereof; and to abate all nuisances which may injure or affect the public health or comfort in any manner they may deem expedient.~~

~~[12.] Dead animals, etc.—To prevent any person from bringing, depositing or having within the limits of said city any dead carcass, or other offensive or unwholesome substance or matter, and to require the removal or destruction by any person who shall have placed or caused to be placed upon or near his premises, or elsewhere, of any substance or matter, filth, or any putrid or unsound beef, pork or fish, hides or skins of any kind; and, on his default, to authorize the removal or destruction thereof by some officer of the city, and to require the owner of any dead animal to remove the same to such place as may be designated.~~

~~7. [13.] Burial of dead, etc.—To regulate the burial of the dead; to purchase, establish and regulate one or more cemeteries; to regulate the registration of marriages; and to direct the returning and keeping of bills of mortality.~~

~~[14.—Driving animals in city.—To prevent, regulate and control the driving of cattle, horses and other animals into or through the city.~~

~~[15.—Dogs.—To tax, regulate or restrain and prohibit the running at large of dogs and to authorize their destruction when at large contrary to ordinances, and to impose penalties for violation of such ordinances.~~

~~[16.—Pounds.—To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, and goats, and to authorize the distraining, impounding and sale of the same for the costs of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold and to impose penalties on the owners thereof for the violation of any ordinance.~~

~~[17.—Breeding animals.—To pass necessary ordinances to prevent any person, corporation or association of individuals from keeping for breeding purposes a jack, bull or stallion within the corporate limits of such city or town.~~

~~[18.—Control of police.—To create, establish and regulate the police of the city; to appoint watchmen and policemen, and to prescribe their duties and powers and compensation.~~

~~[19.—Workhouses.—To erect and establish one or more workhouses or houses of correction, within or without the city limits, make all necessary rules and regulations therefor, and appoint all necessary keepers or assistants. In such workhouse or house of correction may be confined all vagrants and disorderly persons, who may be committed by the mayor or recorder, and any person who shall fail or refuse to pay the fine or costs imposed for any offense may, instead of being committed to jail, be kept therein.~~

~~[20.—Breach of peace, etc.—To prevent all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarreling, using abusive, obscene, profane or insulting language and all disorderly conduct, and punish all persons thus offending.~~

~~[21.—Public disturbances.—To suppress and prevent any riot, affray, noise, disturbance or disorderly assembly in any public or private place within the city.~~

~~[22.—Noises and annoyances.—To prohibit and restrain the firing of firecrackers, guns and pistols, use of velocipedes, or use of any pyrotechnic or any other amusements or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, practices and performances tending to the collection of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise.]~~

~~8. [23.] Obstructions on public ways, etc.—To prevent the incumbering of the streets, alleys, sidewalks, and public grounds, with any vehicle whatsoever, boxes, lumber, posts,~~

awnings, signs, or any other substance or material whatever, to compel persons to keep all weeds, filth or any kind of rubbish from the sidewalks and streets and gutters in front of their premises, and to compel the owners of property to fill up, grade, gravel and otherwise improve the sidewalks in front of same.

~~[24. Dangerous buildings, etc.—To order, whenever in the opinion of the city council, any building, fence, shed, awning or any erection of any kind or any part thereof is liable to fall down and endanger persons or property, any owner or agent of the same, or any owner or occupant of the premises on which such building, shed, awning or other erection stands or to which it is attached, to take down and remove the same, or any part thereof, within such time as they may direct, and to punish by fine and imprisonment, or either, any neglect, failure or refusal to comply therewith. The city council shall have power to remove the same at the expense of the city, on account of the owner of the property or premises, and assess the expenses on the land on which it stood or to which it was attached, and shall, by ordinance, provide for such assessment, the mode and manner of giving notice and the means of recovering any such expenses.]~~

9. [25.] Bridges, sewers, etc.—To establish, erect, construct, regulate and keep in repair, bridges, culverts, and sewers, sidewalks and crossways, and to regulate the construction and use of the same, and to abate any obstructions or encroachments thereon; and the cost of construction of sidewalks shall be defrayed by the owner of the lot, or part of lot or block, fronting on the sidewalk. The cost of any sidewalk constructed by the city shall be collected, if necessary, by the sale of the lot, or part of lot or block on which it fronts, together with the cost of collection, in such manner as the city council may by ordinance provide. A sale of any lot or part of lot or block to enforce collection of costs of sidewalks shall convey a good title to the purchaser. The balance of proceeds of such sale, after paying the amount due the city and costs of sale, shall be paid to the owner.

10. [26.] Street railways.—To compel street railway companies to keep their roads in repair, and to make them conform to the grades of the streets upon which their tracks may be laid, whenever said streets shall have been graded by the city, and to restrain the rate of speed and to compel such railroads to supply ample accommodation for the safe and convenient travel of the people on the street where their track may run. The city council may enforce these regulations by proper ordinances with suitable penalties.

11. [27.] Railway companies.—To direct and control the laying and constructing of railroad tracks, turnouts and switches, or prohibit the same in the streets, avenues and alleys, unless the same have been authorized by law, and the location of depots within the city; to require that railroad tracks, turnouts and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues and alleys and that sufficient space shall be left on either side of a track for the safe and convenient passage of teams, carriages and other vehicles, and persons; to require railroad companies to keep in repair the streets, avenues or alleys through which their track may run, and, if ordered by the city council, to construct and keep in repair, suitable crossings at the intersection of streets, avenues and alleys, and ditches, sewers and culverts, when the city council shall deem it necessary; to direct the use and regulate the speed of locomotive engines in said city, or to prevent and prohibit the use or running of the same within the city.

12. [28.] Unsafe driving.—To prevent, prohibit and suppress horse-racing, immoderate riding or driving in the streets; to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing or remaining in the streets.

13. [29.] Light and gas.—To provide for lighting the streets and erecting lamp posts therein, and regulating the lighting thereof, and from time to time create, alter or extend lamp districts, to exclusively regulate, direct and control the laying and repairing of the gas pipes and gas fixtures in the streets, alleys, sidewalks and elsewhere.

~~[30.—Water system.—To provide, or cause to be provided, the city with water; to make, regulate and establish public wells, pumps and cisterns, hydrants and reservoirs in the streets or elsewhere within said city or beyond the limits thereof, for the extinguishment of fires and the convenience of the inhabitants, and to prevent the unnecessary waste of water. Any city or town owning, or that may hereafter own, its water system and plant,~~

shall not lease or sell the same without first submitting the question of such proposed lease or sale to a vote of the qualified voters who are property taxpayers of such town or city as shown by the last preceding tax rolls, at a general election, or at one held for that especial purpose, nor unless a majority of those voting shall vote in favor thereof. Before submitting such question to a vote as aforesaid, the proposed contract of lease or sale shall be distinctly set forth in the form of an ordinance or contract, and shall be filed with the city or town secretary or clerk at least twenty days prior to the day of the election, and shall at all times be subject to inspection by the people of such city.

~~[31. Market house.—To establish or erect, or cause to be established or erected, markets and market houses; designate, control and regulate market places and privileges; inspect and determine the mode of inspecting meat, fish, vegetables and all produce and every article and thing therein brought for sale.]~~

14. *Cemeteries.* ~~[32.—Parks, etc.]—To provide for inclosing, regulating and improving [all public grounds and] cemeteries belonging to the city[, and to direct and regulate the planting and preserving of ornaments and shade trees in the streets, sidewalks or public grounds].~~

~~[33. Libraries.—To establish a free library in such city or town; to adopt rules and regulations for the proper management thereof, and to appropriate such part of the revenues of such city or town for the management and increase of such free library as the municipal government of such city or town may determine.]~~

15. ~~[34.]~~ Street car taxes.—To assess and collect the ordinary municipal taxes upon street railways.

16. ~~[35.]~~ Trade taxes.—To tax all trades, professions, occupations and callings, the taxing of which is not prohibited by the Constitution of this State; which tax shall not be construed to be a tax on property.

~~[36. Chauffeurs, porters, etc.—To license, tax and regulate hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and provide for their protection and make it a misdemeanor to attempt to defraud them of any legal charge for services rendered, and to regulate, license and restrain runners for railroads, stages and public houses.~~

~~[37. Peddlers, theaters, etc.—To license, tax and regulate or suppress and prevent hawkers, peddlers, pawnbrokers and keepers or other exhibitions, shows and amusements.~~

~~[38. Circuses, etc.—To license, tax or regulate theaters, circuses, the exhibitions of common showmen, shows of any kind, and the exhibition of natural and artificial curiosities, caravans, menageries and musical exhibitions and performances.~~

~~[39. Licenses and fees.—To authorize the proper officer of the city to grant and issue licenses, and to direct the manner of issuing and registering thereof, and the fees to be paid therefor. No license shall be issued for a longer period than one year, and shall not be assignable except by permission of the city council.~~

~~[40. Finances and property.—To manage and control the finances and all property, real and personal and mixed, belonging to the corporation.~~

~~[41. Appropriations.—To appropriate money, and provide for the payment of debts and expenses of the city.~~

~~[42. Special funds.—To provide by ordinance special funds for special purposes, and to make the same disbursable only for the purpose for which the fund was created. Any officer of the city misappropriating said special fund shall be deemed guilty of malfeasance in office, and shall, on complaint of any one interested in said funds misappropriated, be removed from office, and be incapable thereafter to hold any office in said city.~~

~~[43. Improvements.—To appropriate so much of the revenues of the city emanating from whatever source, for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the public markets and streets, erecting and conducting city hospitals, city hall, waterworks, and so forth, as they may from time~~

to time deem expedient; and in furtherance of these objects, to borrow money upon the credit of the city.]

SECTION 6. CONFORMING AMENDMENT. (a) If the proposed Title 3 of the Tax Code is enacted by the 70th Legislature, Regular Session, 1987, and becomes law, Article 1146, Revised Statutes, is amended to read as follows:

Art. 1146. POWERS OF ALDERMEN. The board of aldermen shall:

1. [~~Have power to levy and collect an occupation tax of not more than one-half of the amount levied by the State; also to levy taxes on persons and property, real and personal, within the corporation, subject to taxation by the laws of this State; but the tax on persons and property shall not, in any one year, exceed the rate of one-fourth of one per cent on the one hundred dollars valuation.~~

[2.] Have and exercise exclusive control over the streets, alleys and other public places within the corporate limits; provided, that, with the consent of the board of aldermen, where streets are continuations of public roads, the commissioners court shall have power to construct bridges and other improvements thereon which facilitate the practicability of travel on said streets.

2. [3.] Have the power to cause the male inhabitants between the ages of twenty-one and forty-five years, except ministers of the gospel actually engaged in the discharge of their duties, to work on the streets and public alleys not to exceed five days in any one year, or furnish a substitute, or a sum of money, not to exceed one dollar for each day's work demanded, to employ such substitute.

[4. ~~Prevent, as far as practicable, any nuisances within the limits of the corporation, and cause such as exist to be removed at the expense of the person by whom they were occasioned or upon whose property they may be found.~~

[5. ~~Have power to prescribe the fine to be imposed by the mayor for the violation of any by-laws or ordinance, which shall in no case exceed one hundred dollars; but no fine shall be imposed except upon the verdict of a jury, should the defendant demand a trial by jury.~~

[6. ~~Fill, for the unexpired term, any vacancy which may occur in any office created by this chapter or by the board of aldermen under its provisions, such vacancy to be filled by the acting aldermen.~~

[7. ~~Have power to appoint such officers, other than those mentioned in this chapter, as shall be deemed necessary to carry out the provisions of the same, to prescribe their duties and to fix their compensation; and shall also have power to dismiss them at any time and appoint others in their stead.~~

[8. ~~Prescribe the bonds and security which the marshal and such other officers as may be appointed shall give, which shall be executed and approved by the mayor, before the marshal or other officer shall enter upon the discharge of his duties, said bond to be payable to the corporation.~~

[9. ~~Have power to appoint another marshal or officer in the place of the one so elected or appointed if the bond required in the preceding paragraph is not given within five days after the marshal is elected or appointed.~~

[10. ~~The board of aldermen may establish markets and may do whatever else may be necessary to give effect to the provisions of this chapter.~~

(b) If the proposed Title 3 of the Tax Code is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Article 1146, Revised Statutes, is amended to read as follows:

Art. 1146. POWERS OF ALDERMEN. The board of aldermen shall:

1. Have power to levy and collect an occupation tax of not more than one-half of the amount levied by the State; also to levy taxes on persons and property, real and personal, within the corporation, subject to taxation by the laws of this State; but the tax on persons and property shall not, in any one year, exceed the rate of one-fourth of one per cent on the one hundred dollars valuation.

2. Have and exercise exclusive control over the streets, alleys and other public places within the corporate limits; provided, that, with the consent of the board of aldermen, where streets are continuations of public roads, the commissioners court shall have power to construct bridges and other improvements thereon which facilitate the practicability of travel on said streets.

3. Have the power to cause the male inhabitants between the ages of twenty-one and forty-five years, except ministers of the gospel actually engaged in the discharge of their duties, to work on the streets and public alleys not to exceed five days in any one year, or furnish a substitute, or a sum of money, not to exceed one dollar for each day's work demanded, to employ such substitute.

~~[4. Prevent, as far as practicable, any nuisances within the limits of the corporation, and cause such as exist to be removed at the expense of the person by whom they were occasioned or upon whose property they may be found.~~

~~[5. Have power to prescribe the fine to be imposed by the mayor for the violation of any by-laws or ordinance, which shall in no case exceed one hundred dollars; but no fine shall be imposed except upon the verdict of a jury, should the defendant demand a trial by jury.~~

~~[6. Fill, for the unexpired term, any vacancy which may occur in any office created by this chapter or by the board of aldermen under its provisions, such vacancy to be filled by the acting aldermen.~~

~~[7. Have power to appoint such officers, other than those mentioned in this chapter, as shall be deemed necessary to carry out the provisions of the same, to prescribe their duties and to fix their compensation; and shall also have power to dismiss them at any time and appoint others in their stead.~~

~~[8. Prescribe the bonds and security which the marshal and such other officers as may be appointed shall give, which shall be executed and approved by the mayor, before the marshal or other officer shall enter upon the discharge of his duties, said bond to be payable to the corporation.~~

~~[9. Have power to appoint another marshal or officer in the place of the one so elected or appointed if the bond required in the preceding paragraph is not given within five days after the marshal is elected or appointed.~~

~~[10. The board of aldermen may establish markets and may do whatever else may be necessary to give effect to the provisions of this chapter.]~~

SECTION 7. CONFORMING AMENDMENT. (a) If the proposed Title 3 of the Tax Code is enacted by the 70th Legislature, Regular Session, 1987, and becomes law, Article 1165, Revised Statutes, is repealed.

(b) If the proposed Title 3 of the Tax Code is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Article 1165, Revised Statutes, is amended to read as follows:

Art. 1165. ~~TAX LIMITATION [MAY CHANGE CHARTER].~~ *A home-rule municipality* ~~[Cities having more than five thousand inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters, subject to such limitations as may be prescribed by the Legislature. No charter or any ordinances passed under said charter shall contain any provision inconsistent with the Constitution or general laws of this State; said cities]~~ may levy, assess and collect such taxes as may be authorized by law, or by *its charter* ~~[their charters]~~; but no tax for any purpose shall ever be lawful for any one year which shall exceed two and one-half per cent of the taxable property of *the municipality* ~~[such city, and no debt shall ever be created by any city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least two per cent thereon].~~ ~~[No city charter shall be altered, amended or repealed oftener than every two years. The governing body of such city may, by two-thirds votes of its members, or upon petition of ten per cent of the qualified voters of said city, shall provide by ordinance for the submission of the question, "shall a commission be chosen to frame a new charter."]~~

SECTION 8. CONFORMING AMENDMENT. (a) If the proposed Title 3 of the Tax Code is enacted by the 70th Legislature, Regular Session, 1987, and becomes law, Article 1175, Revised Statutes, is amended to read as follows:

Art. 1175. ENUMERATED POWERS. *A home-rule municipality has the following powers* [~~Cities adopting the charter or amendment hereunder shall have full power of local self-government, and among the other powers that may be exercised by any such city the following are hereby enumerated for greater certainty:~~]:

1. ~~The [creation of a commission, aldermanic or other form of government; the creation of offices, the manner and mode of selecting officers and prescribing their qualifications, duties, compensation and tenure of office.~~

~~[2. The power to fix the boundary limits of said city, to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, to provide for the disannexation of territory within such city and to provide for the exchange of territory with other cities or towns, according to such rules as may be provided by said charter not inconsistent with the procedural rules prescribed by the Municipal Annexation Act.~~

~~[3. To hold by gift, deed, devise or otherwise any character of property, including any charitable or trust fund; to plead and be impleaded in all courts, and to act in perpetual succession as a body politic.~~

~~[4. To provide that no public property or any other character of property owned or held by said city shall be subject to any execution of any kind or nature.~~

~~[5. To provide that no fund of the city shall be subject to garnishment, and the city shall never be required to answer in any garnishment proceedings.~~

~~[6. To provide for the exemption from liability on account of any claim for any damages to any person or property, or to fix such rules and regulations governing the city's liability as may be deemed advisable.~~

~~[7. To provide for the levying of any general or special ad valorem tax for any purpose not inconsistent with the Constitution of this State.~~

~~[8. To provide for the mode and method of assessing taxes, both real and personal, against any person and corporation, including the right to assess the franchise of any public corporation using and occupying the public streets or grounds of the city, separately from the tangible property of such corporation.~~

~~[9. To provide for the collection of all taxes, including the right to impose penalties for delinquent taxes.~~

~~[10. The power to control and manage the finances of any such city; to prescribe its fiscal year and fiscal arrangements; the] power to issue bonds upon the credit of the city for the purpose of making permanent public improvements or for other public purposes in the amount and to the extent provided by such charter, and consistent with the Constitution of this State; provided, that said bonds shall have first been authorized by a majority vote by the duly qualified property tax-paying voters voting at an election held for that purpose. Thereafter all such bonds shall be submitted to the Attorney General for his approval, and the Comptroller for registration, as provided by law, provided that any such bonds after approval, may be issued by the city, either optional or serial or otherwise as may be deemed advisable by the governing authority. Whenever any city has heretofore been authorized, under any special charter, creating such city, to issue any bonds by the terms of such charter, the provisions of this chapter shall not be construed to interfere with the issuance of any such bonds under the provisions of any charter under which such bonds were authorized.~~

~~[11. To have the exclusive right to own, erect, maintain and operate water works and water works system for the use of any city, and its inhabitants, to regulate the same and have power to prescribe rates for water furnished and to acquire by purchase, donation or otherwise, suitable grounds within and without the limits of the city on which to erect any such works and the necessary right of way, and to do and perform whatsoever may be necessary to operate and maintain the said water works or water works system and to compel the owners of all property and the agents of such owners or persons in control thereof to pay all charges for water furnished upon such property and to fix a lien upon~~

~~such property for any such charges. To provide that all receipts from the water works may, in its discretion, constitute a separate or sacred fund which shall be used for no other purpose than the extension, improvement, operation, maintenance, repair and betterment of said water works system or water works supply, and to provide for the pledging of any such receipts and revenues for the purpose of making any of such improvements, and the payment of the principal and providing an interest and sinking fund for any bonds issued therefor under such regulations as may be provided by the charter adopted by such city.]~~

2. [12.] To prohibit the use of any street, alley, highway or grounds of the city by any telegraph, telephone, electric light, street railway, interurban railway, steam railway, gas company, or any other character of public utility without first obtaining the consent of the governing authorities expressed by ordinance and upon paying such compensation as may be prescribed and upon such condition as may be provided by any such ordinance. To determine, fix and regulate the charges, fares or rates of any person, firm or corporation enjoying or that may enjoy the franchise or exercising any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time alter or change such rules, regulations and compensation; provided that in adopting such regulations and in fixing or changing such compensation, or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying the franchise shall be considered unless proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received in accordance with the laws and Constitution of this State applicable thereto. In order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the governing authority shall have full power to inspect the books and compel the attendance of witnesses for such purpose.

~~[13. To buy, own, construct within or without the city limits and to maintain and operate a system or systems, of gas, or electric lighting plant, telephone, street railways, sewerage plants, fertilizing plants, abattoir, municipal railway terminals, docks, wharfs, ferries, ferry landings, loading and unloading devices and shipping facilities, or any other public service or public utility, and to demand and receive compensation for service furnished for private purpose or otherwise, and to exercise the right of eminent domain as hereinafter provided for the appropriation of lands, rights of way or anything whatsoever that may be proper and necessary to efficiently carry out said objects. Any city shall have the power to condemn the property of any person, firm or corporation now conducting any such business and for the purpose of operating and maintaining any such public utilities and for the purpose of distributing such service throughout the city or any portion thereof; provided that any city may adopt by its charter any such rules and regulations as it may deem advisable for the acquiring and operation of any such public utilities.~~

~~[14. To manufacture its own electricity, gas, or anything else that may be needed or used by the public; to purchase and make contracts with any person or corporation for the purchasing of gas, electricity, oil or any other commodity or article used by the public and to sell the same to the public upon such terms as may be provided by the charter.~~

~~[15. To have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary; to take any private property within or without the city limits for any of the following purposes; city halls, police stations, jails, calaboose, fire stations, libraries, school houses, high school buildings, academies, hospitals, sanitariums, auditoriums, market houses, reformatories, abattoirs, railroad terminals, docks, wharves, warehouses, ferries, ferry landings, elevators, loading and unloading devices, shipping facilities, piers, streets, alleys, parks, highways, boulevards, speedways, playgrounds, sewer systems, storm sewers, sewerage disposal plants, drains, filtering beds and emptying grounds for sewer systems, reservoirs, water sheds, water supply sources, wells, water and electric light systems, gas plants, cemeteries, crematories, prison farms, and to acquire lands within and without the city for any other municipal purposes that may be deemed advisable. The power herein granted for the purpose of acquiring private property shall include the power of the improvement and~~

~~enlargement of the water works, including water supply, riparian rights, stand pipes, water sheds, the construction of supply reservoirs, parks, squares and pleasure grounds, public wharves, and landing places for steamers and other crafts, and for the purpose of straightening or improving the channels of any stream, branch or drain, or the straightening, widening or extension of any street, alley, avenue or boulevard. The power of eminent domain hereby conferred shall include the right of the governing authority, when so expressed, to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes.]~~

3. [16.] To have exclusive dominion, control, and jurisdiction in, over and under the public streets, avenues, alleys, highways and boulevards, and public grounds of such city and to provide for the improvement of any public street, alleys, highways, avenues or boulevards by paving, raising, grading, filling or otherwise improving the same and to charge the cost of making such improvement against the abutting property, by fixing a lien against the same, and a personal charge against the owner thereof according to an assessment specially levied therefor in an amount not to exceed the special benefit any such property received in enhanced value by reason of making such improvement, and to provide for the issuance of assignable certificates covering the payments for said cost, provided that the charter shall apportion the cost to be paid by the property owners and the amount to be paid by the city, and provided further, that all street railways, steam railways, or other railways, shall pay the cost of improving the said street between the rails and tracks of any such railway companies and for two feet on each side thereof. The city shall have the power to provide for the construction and building of sidewalks and charge the entire cost of constructing of said sidewalks, including the curb, against the owner of abutting property, and to make a special charge against the owner for such cost and to provide by special assessment a lien against such property for such cost; to have the power to provide for the improvement of any such sidewalk or the construction of any such curb by penal ordinance and to declare defective sidewalks to be a public nuisance. The power herein granted for making street improvements and assessing the cost by special assessment in the manner herein stated shall not be construed to prevent any city from adopting any other method or plan for the improvement of its streets, sidewalks, alleys, curbs, or boulevards, as it may deem advisable by its charter.

4. [17.] To open, extend, straighten, widen any public street, alley, avenue or boulevard and for such purpose to acquire the necessary lands and to appropriate the same under the power of eminent domain and to provide that the cost of improving any such street, alley, avenue or boulevard by opening, extending and widening the same shall be paid by the owners of property specially benefited whose property lies in the territory of such improvement and to provide that the cost shall be charged by special assessment and that a personal charge shall be made against any owner for the amount due by him and to provide for the appointment by the county judge or other officer exercising like or similar powers, of three special commissioners for the purpose of condemning the said lands and for the purpose of apportioning the said cost, which apportionment of said cost shall be specially assessed by the governing authorities against the owners and the property of the owners lying in the territory so found to be specially benefited in enhanced value by said special commissioners. The city shall pay such portion of such cost as may be determined by the said special commissioners, provided the same shall never exceed one third the cost, and the property owners and their property shall be liable for the balance of the same as may be apportioned by said commissioners. The city may issue assignable certificates for the payment of any such cost against such property owners and may provide for the payment of any such cost in deferred payments, to bear interest at such rate as may be prescribed by the charter not to exceed eight per cent. The city may adopt any other method for the opening, straightening, widening or extending of its streets as herein provided for as may be deemed advisable, and charge the cost of same against the property and the owner specially benefited in enhanced value and lying in the territory of said improvement, that its charter may provide. The authority to adopt any other method shall include the manner of appointing commissioners, the manner of giving notice and the manner of fixing assessments or providing for the payment of any such improvement.

5. [18.] To control, regulate and remove all obstructions or other encroachments or encumbrances on any public street, alley or ground, and to narrow, alter, widen or straighten any such streets, alleys, avenues or boulevards, and to vacate and abandon and close any such streets, alleys, avenues or boulevards, and to regulate and control the moving of buildings or other structures over and upon the streets or avenues of such city.

~~[19. Each city shall have the power to define all nuisances and prohibit the same within the city and outside the city limits for a distance of five thousand feet; to have power to police all parks or grounds, lakes and the land contiguous thereto and used in connection therewith, speedways, or boulevards owned by said city and lying outside of said city; to prohibit the pollution of any stream, drain or tributaries thereof, which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any water sheds and the policing of same; to inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the city, from which meat or milk is furnished to the inhabitants of the city.]~~

6. [20.] To license, operate and control the operation of all character of vehicles using the public streets, including motorcycles, automobiles or like vehicles, and to prescribe the speed of the same, the qualification of the operator of the same, and the lighting of the same by night and to provide for the giving bond or other security for the operation of the same.

~~[21. To regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.~~

~~[22. To regulate the location and control the conduct of theaters, moving picture shows, ten pin alleys, vaudeville shows, and all places of public amusements.~~

~~[23. To license any lawful business, occupation or calling that is susceptible to the control of the police power.~~

~~[24. To license, regulate, control or prohibit the erection of signs or bill boards as may be provided by charter or ordinance.~~

~~[25. To provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fire proof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.~~

~~[26. To divide the city in zones or districts, and to regulate the location, size, height, bulk and use of buildings within such zones or districts, and to establish building lines within such zones or districts or otherwise, and make different regulations for different districts and thereafter alter the same. The governing authorities may be authorized by their charter to create a commission or board for the purpose of carrying out the powers of this section, or may provide for the creation of a board of appeals or review for the purpose of hearing and deciding on appeals from and reviewing any order, requirement, decision or determination of the governing authorities in carrying out the powers and authority herein conferred; provided the authority and power herein conferred shall never be construed to be a limitation of any other power and authority conferred in this chapter.~~

~~[27. To provide for police and fire departments.]~~

7. [28.] To provide for a health department and the establishment of rules and regulations protecting the health of the city and the establishment of quarantine stations, and pest houses, emergency hospitals and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases.

~~[29. To provide for a sanitary sewer system and to require property owners to make connections with such sewers with their premises and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability. To provide for fixing penalties for a failure to make sanitary sewer connections.~~

~~[30. The power to require water works corporations, gas companies, street car companies, telephone companies, telegraph companies, electric light companies or other companies or individuals enjoying a franchise now or hereafter from the city, to make and furnish extensions of their service to such territory as may be required by the charter.]~~

8. ~~[31.]~~ Provided that in all cities of over twenty-five thousand inhabitants, the governing body of such city, when the public service of such city may require the same, shall have the right and power to compel any street railway or other public utility corporation to extend its lines of service into any section of said city not to exceed two miles, all told, in any one year.

~~[32. To provide for the establishment of public schools and public school system in any such city, and to have exclusive control over same and to provide such regulations and rules governing the management of same as may be deemed advisable; to levy and collect the necessary taxes, general or special, for the support of such public schools and public school system.]~~

9. ~~[33.]~~ Whenever any city may determine to acquire any public utility using and occupying its streets, alleys, and avenues as hereinbefore provided, and it shall be necessary to condemn the said public utility, the city may obtain funds for the purpose of acquiring the said public utility and paying the compensation therefor, by issuing bonds, notes or other evidence of indebtedness and shall secure the same by fixing a lien upon the said properties constituting the said public utility so acquired by condemnation or purchase or otherwise; said security shall apply alone to said properties so pledged; and such further regulations may be provided by any charter for the proper financing or raising the revenue necessary for obtaining any public utilities and providing for the fixing of said security.

~~[34. To enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances and to preserve and enforce the good government, order and security of the city and its inhabitants.]~~

~~[35. A home-rule city may require all buildings to be constructed in accordance with energy conservation standards included in the building code, if any.]~~

~~[36. A home-rule city may adopt an ordinance which requires the demolition or repair of buildings which are dilapidated, substandard, or unfit for human habitation and which constitute a hazard to the health, safety, and welfare of the citizens. The ordinance must establish minimum standards for continued use and occupancy of structures, and these standards shall apply to buildings regardless of when they were constructed. The ordinance must provide for proper notice to the owner and a public hearing. After the hearing, if the building is found to be substandard, the city may direct that the building be repaired or removed within a reasonable time. After the expiration of the allotted time the city has the power to remove the building at the expense of the city and assess the expenses on the land on which the building stood or to which it was attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the removal expenses.]~~

(b) If the proposed Title 3 of the Tax Code is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Article 1175, Revised Statutes, is amended to read as follows:

Art. 1175. ENUMERATED POWERS. *A home-rule municipality has the following powers* ~~[Cities adopting the charter or amendment hereunder shall have full power of local self-government, and among the other powers that may be exercised by any such city the following are hereby enumerated for greater certainty]:~~

1. ~~[The creation of a commission, aldermanic or other form of government; the creation of offices, the manner and mode of selecting officers and prescribing their qualifications, duties, compensation and tenure of office.]~~

~~[2. The power to fix the boundary limits of said city, to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, to provide for the disannexation of territory within such city and to provide for the exchange of territory with other cities or towns, according to such rules as may be~~

~~provided by said charter not inconsistent with the procedural rules prescribed by the Municipal Annexation Act.~~

~~[3. To hold by gift, deed, devise or otherwise any character of property, including any charitable or trust fund; to plead and be impleaded in all courts, and to act in perpetual succession as a body politic.~~

~~[4. To provide that no public property or any other character of property owned or held by said city shall be subject to any execution of any kind or nature.~~

~~[5. To provide that no fund of the city shall be subject to garnishment, and the city shall never be required to answer in any garnishment proceedings.~~

~~[6. To provide for the exemption from liability on account of any claim for any damages to any person or property, or to fix such rules and regulations governing the city's liability as may be deemed advisable.~~

~~[7.] To provide for the levying of any general or special ad valorem tax for any purpose not inconsistent with the Constitution of this State.~~

2. ~~[8.]~~ To provide for the mode and method of assessing taxes, both real and personal, against any person and corporation, including the right to assess the franchise of any public corporation using and occupying the public streets or grounds of the city, separately from the tangible property of such corporation.

3. ~~[9.]~~ To provide for the collection of all taxes, including the right to impose penalties for delinquent taxes.

4. ~~[10.]~~ The ~~[power to control and manage the finances of any such city; to prescribe its fiscal year and fiscal arrangements; the]~~ power to issue bonds upon the credit of the city for the purpose of making permanent public improvements or for other public purposes in the amount and to the extent provided by such charter, and consistent with the Constitution of this State; provided, that said bonds shall have first been authorized by a majority vote by the duly qualified property tax-paying voters voting at an election held for that purpose. Thereafter all such bonds shall be submitted to the Attorney General for his approval, and the Comptroller for registration, as provided by law, provided that any such bonds after approval, may be issued by the city, either optional or serial or otherwise as may be deemed advisable by the governing authority. Whenever any city has heretofore been authorized, under any special charter, creating such city, to issue any bonds by the terms of such charter, the provisions of this chapter shall not be construed to interfere with the issuance of any such bonds under the provisions of any charter under which such bonds were authorized.

~~[11. To have the exclusive right to own, erect, maintain and operate water works and water works system for the use of any city, and its inhabitants, to regulate the same and have power to prescribe rates for water furnished and to acquire by purchase, donation or otherwise, suitable grounds within and without the limits of the city on which to erect any such works and the necessary right of way, and to do and perform whatsoever may be necessary to operate and maintain the said water works or water works system and to compel the owners of all property and the agents of such owners or persons in control thereof to pay all charges for water furnished upon such property and to fix a lien upon such property for any such charges. To provide that all receipts from the water works may, in its discretion, constitute a separate or sacred fund which shall be used for no other purpose than the extension, improvement, operation, maintenance, repair and betterment of said water works system or water works supply, and to provide for the pledging of any such receipts and revenues for the purpose of making any of such improvements, and the payment of the principal and providing an interest and sinking fund for any bonds issued therefor under such regulations as may be provided by the charter adopted by such city.]~~

5. ~~[12.]~~ To prohibit the use of any street, alley, highway or grounds of the city by any telegraph, telephone, electric light, street railway, interurban railway, steam railway, gas company, or any other character of public utility without first obtaining the consent of the governing authorities expressed by ordinance and upon paying such compensation as may be prescribed and upon such condition as may be provided by any such ordinance. To determine, fix and regulate the charges, fares or rates of any person, firm or corporation

enjoying or that may enjoy the franchise or exercising any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time alter or change such rules, regulations and compensation; provided that in adopting such regulations and in fixing or changing such compensation, or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying the franchise shall be considered unless proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received in accordance with the laws and Constitution of this State applicable thereto. In order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the governing authority shall have full power to inspect the books and compel the attendance of witnesses for such purpose.

~~[13. To buy, own, construct within or without the city limits and to maintain and operate a system or systems, of gas, or electric lighting plant, telephone, street railways, sewerage plants, fertilizing plants, abattoir, municipal railway terminals, docks, wharves, ferries, ferry landings, loading and unloading devices and shipping facilities, or any other public service or public utility, and to demand and receive compensation for service furnished for private purpose or otherwise, and to exercise the right of eminent domain as hereinafter provided for the appropriation of lands, rights of way or anything whatsoever that may be proper and necessary to efficiently carry out said objects. Any city shall have the power to condemn the property of any person, firm or corporation now conducting any such business and for the purpose of operating and maintaining any such public utilities and for the purpose of distributing such service throughout the city or any portion thereof; provided that any city may adopt by its charter any such rules and regulations as it may deem advisable for the acquiring and operation of any such public utilities.~~

~~[14. To manufacture its own electricity, gas, or anything else that may be needed or used by the public; to purchase and make contracts with any person or corporation for the purchasing of gas, electricity, oil or any other commodity or article used by the public and to sell the same to the public upon such terms as may be provided by the charter.~~

~~[15. To have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary; to take any private property within or without the city limits for any of the following purposes; city halls, police stations, jails, calaboose, fire stations, libraries, school houses, high school buildings, academies, hospitals, sanitariums, auditoriums, market houses, reformatories, abattoirs, railroad terminals, docks, wharves, warehouses, ferries, ferry landings, elevators, loading and unloading devices, shipping facilities, piers, streets, alleys, parks, highways, boulevards, speedways, playgrounds, sewer systems, storm sewers, sewerage disposal plants, drains, filtering beds and emptying grounds for sewer systems, reservoirs, water sheds, water supply sources, wells, water and electric light systems, gas plants, cemeteries, crematories, prison farms, and to acquire lands within and without the city for any other municipal purposes that may be deemed advisable. The power herein granted for the purpose of acquiring private property shall include the power of the improvement and enlargement of the water works, including water supply, riparian rights, stand pipes, water sheds, the construction of supply reservoirs, parks, squares and pleasure grounds, public wharves, and landing places for steamers and other crafts, and for the purpose of straightening or improving the channels of any stream, branch or drain, or the straightening, widening or extension of any street, alley, avenue or boulevard. The power of eminent domain hereby conferred shall include the right of the governing authority, when so expressed, to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes.]~~

6. [16.] To have exclusive dominion, control, and jurisdiction in, over and under the public streets, avenues, alleys, highways and boulevards, and public grounds of such city and to provide for the improvement of any public street, alleys, highways, avenues or boulevards by paving, raising, grading, filling or otherwise improving the same and to charge the cost of making such improvement against the abutting property, by fixing a lien against the same, and a personal charge against the owner thereof according to an

assessment specially levied therefor in an amount not to exceed the special benefit any such property received in enhanced value by reason of making such improvement, and to provide for the issuance of assignable certificates covering the payments for said cost, provided that the charter shall apportion the cost to be paid by the property owners and the amount to be paid by the city, and provided further, that all street railways, steam railways, or other railways, shall pay the cost of improving the said street between the rails and tracks of any such railway companies and for two feet on each side thereof. The city shall have the power to provide for the construction and building of sidewalks and charge the entire cost of constructing of said sidewalks, including the curb, against the owner of abutting property, and to make a special charge against the owner for such cost and to provide by special assessment a lien against such property for such cost; to have the power to provide for the improvement of any such sidewalk or the construction of any such curb by penal ordinance and to declare defective sidewalks to be a public nuisance. The power herein granted for making street improvements and assessing the cost by special assessment in the manner herein stated shall not be construed to prevent any city from adopting any other method or plan for the improvement of its streets, sidewalks, alleys, curbs, or boulevards, as it may deem advisable by its charter.

7. [17.] To open, extend, straighten, widen any public street, alley, avenue or boulevard and for such purpose to acquire the necessary lands and to appropriate the same under the power of eminent domain and to provide that the cost of improving any such street, alley, avenue or boulevard by opening, extending and widening the same shall be paid by the owners of property specially benefited whose property lies in the territory of such improvement and to provide that the cost shall be charged by special assessment and that a personal charge shall be made against any owner for the amount due by him and to provide for the appointment by the county judge or other officer exercising like or similar powers, of three special commissioners for the purpose of condemning the said lands and for the purpose of apportioning the said cost, which apportionment of said cost shall be specially assessed by the governing authorities against the owners and the property of the owners lying in the territory so found to be specially benefited in enhanced value by said special commissioners. The city shall pay such portion of such cost as may be determined by the said special commissioners, provided the same shall never exceed one third the cost, and the property owners and their property shall be liable for the balance of the same as may be apportioned by said commissioners. The city may issue assignable certificates for the payment of any such cost against such property owners and may provide for the payment of any such cost in deferred payments, to bear interest at such rate as may be prescribed by the charter not to exceed eight percent. The city may adopt any other method for the opening, straightening, widening or extending of its streets as herein provided for as may be deemed advisable, and charge the cost of same against the property and the owner specially benefited in enhanced value and lying in the territory of said improvement, that its charter may provide. The authority to adopt any other method shall include the manner of appointing commissioners, the manner of giving notice and the manner of fixing assessments or providing for the payment of any such improvement.

8. [18.] To control, regulate and remove all obstructions or other encroachments or encumbrances on any public street, alley or ground, and to narrow, alter, widen or straighten any such streets, alleys, avenues or boulevards, and to vacate and abandon and close any such streets, alleys, avenues or boulevards, and to regulate and control the moving of buildings or other structures over and upon the streets or avenues of such city.

~~[19. Each city shall have the power to define all nuisances and prohibit the same within the city and outside the city limits for a distance of five thousand feet; to have power to police all parks or grounds, lakes and the land contiguous thereto and used in connection therewith, speedways, or boulevards owned by said city and lying outside of said city; to prohibit the pollution of any stream, drain or tributaries thereof, which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any water sheds and the policing of same; to inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the city, from which meat or milk is furnished to the inhabitants of the city.]~~

9. [20.] To license, operate and control the operation of all character of vehicles using the public streets, including motorcycles, automobiles or like vehicles, and to prescribe the

speed of the same, the qualification of the operator of the same, and the lighting of the same by night and to provide for the giving bond or other security for the operation of the same.

~~[21. To regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.~~

~~[22. To regulate the location and control the conduct of theaters, moving picture shows, ten pin alleys, vaudeville shows, and all places of public amusements.~~

~~[23. To license any lawful business, occupation or calling that is susceptible to the control of the police power.~~

~~[24. To license, regulate, control or prohibit the erection of signs or bill boards as may be provided by charter or ordinance.~~

~~[25. To provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fire proof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.~~

~~[26. To divide the city in zones or districts, and to regulate the location, size, height, bulk and use of buildings within such zones or districts, and to establish building lines within such zones or districts or otherwise, and make different regulations for different districts and thereafter alter the same. The governing authorities may be authorized by their charter to create a commission or board for the purpose of carrying out the powers of this section, or may provide for the creation of a board of appeals or review for the purpose of hearing and deciding on appeals from and reviewing any order, requirement, decision or determination of the governing authorities in carrying out the powers and authority herein conferred; provided the authority and power herein conferred shall never be construed to be a limitation of any other power and authority conferred in this chapter.~~

~~[27. To provide for police and fire departments.]~~

10. [28.] To provide for a health department and the establishment of rules and regulations protecting the health of the city and the establishment of quarantine stations, and pest houses, emergency hospitals and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases.

~~[29. To provide for a sanitary sewer system and to require property owners to make connections with such sewers with their premises and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability. To provide for fixing penalties for a failure to make sanitary sewer connections.~~

~~[30. The power to require water works corporations, gas companies, street car companies, telephone companies, telegraph companies, electric light companies or other companies or individuals enjoying a franchise now or hereafter from the city, to make and furnish extensions of their service to such territory as may be required by the charter.]~~

11. [31.] Provided that in all cities of over twenty-five thousand inhabitants, the governing body of such city, when the public service of such city may require the same, shall have the right and power to compel any street railway or other public utility corporation to extend its lines of service into any section of said city not to exceed two miles, all told, in any one year.

~~[32. To provide for the establishment of public schools and public school system in any such city, and to have exclusive control over same and to provide such regulations and rules governing the management of same as may be deemed advisable; to levy and collect the necessary taxes, general or special, for the support of such public schools and public school system.]~~

12. [33.] Whenever any city may determine to acquire any public utility using and occupying its streets, alleys, and avenues as hereinbefore provided, and it shall be necessary to condemn the said public utility, the city may obtain funds for the purpose of acquiring the said public utility and paying the compensation therefor, by issuing bonds, notes or other evidence of indebtedness and shall secure the same by fixing a lien upon the said properties constituting the said public utility so acquired by condemnation or purchase or otherwise; said security shall apply alone to said properties so pledged; and such further regulations may be provided by any charter for the proper financing or raising the revenue necessary for obtaining any public utilities and providing for the fixing of said security.

[34. ~~To enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances and to preserve and enforce the good government, order and security of the city and its inhabitants.~~

[35. ~~A home-rule city may require all buildings to be constructed in accordance with energy conservation standards included in the building code, if any.~~

[36. ~~A home-rule city may adopt an ordinance which requires the demolition or repair of buildings which are dilapidated, substandard, or unfit for human habitation and which constitute a hazard to the health, safety, and welfare of the citizens. The ordinance must establish minimum standards for continued use and occupancy of structures, and these standards shall apply to buildings regardless of when they were constructed. The ordinance must provide for proper notice to the owner and a public hearing. After the hearing, if the building is found to be substandard, the city may direct that the building be repaired or removed within a reasonable time. After the expiration of the allotted time the city has the power to remove the building at the expense of the city and assess the expenses on the land on which the building stood or to which it was attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the removal expenses.]~~

SECTION 9. CONFORMING AMENDMENT. If the proposed Chapter 25, Government Code, is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Section 5(f), Chapter 409, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-375, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) The judge of the County Court at Law of Gregg County [~~and the county judge of Gregg County~~] shall receive an annual salary to be set by the commissioners court in an amount not to exceed 90 percent of the total annual salary paid to the judges of the district courts having jurisdiction in Gregg County. The salary may be paid in equal monthly installments. The judge of the county court at law may be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the county court at law shall assess the same fees as are prescribed by law relating to county judges' fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, and no part of which shall be paid to the judge.

SECTION 10. CONFORMING AMENDMENT. Article 2351, Revised Statutes, is amended to read as follows:

Art. 2351. CERTAIN POWERS SPECIFIED. Each commissioners court shall:

1. [~~Lay off their respective counties into precincts as provided by the Texas Constitution for the election of justices of the peace and constables, fix the times and places of holding justices courts, and shall establish places in such precincts where elections shall be held.~~

[2.] Establish public ferries whenever the public interest may require.

2. [3.] Lay out and establish, change and discontinue public roads and highways.

3. [4.] Build bridges and keep them in repair.

4. [5.] Appoint road overseers and apportion hands.

5. [6.] Exercise general control over all roads, highways, ferries and bridges in their counties.

6. [7. ~~Provide and keep in repair court houses, jails and all necessary public buildings.~~

~~[8.—Provide for the protection, preservation and disposition of all lands granted to the county for education or schools.~~

~~[9.—Provide seals required by law for the district and county courts.~~

~~[10.—Audit and settle all accounts against the county and direct their payment.~~

[11.] Provide for the support of paupers and such idiots and lunatics as cannot be admitted into the lunatic asylum, residents of their county, who are unable to support themselves. A county is obligated to provide health care assistance to eligible residents only to the extent prescribed by the Indigent Health Care and Treatment Act.

7. [12.] Provide for the burial of paupers.

8. ~~[13.—Punish contempts by fine not to exceed twenty-five dollars or by imprisonment not to exceed twenty-four hours, and in case of fine, the party may be held in custody until the fine is paid.~~

~~[14.—Issue all such notices, citations, writs and process as may be necessary for the proper execution of the powers and duties imposed by such court and to enforce its jurisdiction.~~

~~[15.—Said court shall have all such other powers and jurisdiction, and shall perform all such other duties, as are now or may hereafter be prescribed by law.~~

[16.] Said Court shall have the authority to use county road machinery and funds from the General Fund or Road and Bridge Funds in cleaning streams and in aiding flood control when such improvements are deemed to be of aid to the county in the maintenance and the building of county roads, in counties having a population of from nineteen thousand, eight hundred and fifty (19,850) to nineteen thousand, eight hundred and ninety-five (19,895) according to the last Federal Census.

~~[17.—a.—The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is hereby empowered to create a revolving fund or funds and to make appropriations thereto out of the general revenue of such county; and such revolving fund shall be used by such county only in cooperation with the United States Department of Agriculture to aid and assist in carrying out the purposes and provisions of an Act of Congress of the United States pertaining to the distribution of commodities to persons in need of assistance, under the direction of the United States Department of Agriculture; provided, however, that the county shall have on hand at all times either the moneys appropriated to such revolving fund or funds or the equivalent thereof in stamps issued by the United States Department of Agriculture under the Food and/or Cotton Stamp Plan, which stamps are convertible into cash at any time.~~

~~[b.—In such counties of this State exercising the powers herein granted, an issuing officer shall be appointed to carry out the provisions of this Act and to administer the funds herein appropriated. Such issuing officer shall be a citizen of the State of Texas and appointed by the County Judge of such County subject to the approval of the Commissioners Court thereof. He shall be required to furnish a good and sufficient surety bond in such amount and upon such terms and conditions as may be required by the Commissioners Court and the United States Department of Agriculture. Such issuing officer shall receive a salary, to be paid out of the general fund or any other fund of the county, except constitutional funds, not otherwise appropriated, not to exceed Two Hundred Dollars (\$200) per month, and may appoint such cashiers and other assistants as may be authorized by such Court. The premiums of all bonds which may be required of such issuing officer, cashiers or other assistants, shall be paid by the Commissioners Court out of any available funds therefor belonging to such county.~~

~~[c.—Provided however the powers herein granted to such counties may be exercised by two (2) or more counties in conjunction with each other and in cooperation with the United States Department of Agriculture. And when such powers are exercised by two (2) or more counties jointly, the County Judges of such counties shall appoint the issuing officer, fix such appointee's bond and to do all other things necessary to cooperate with the United States Department of Agriculture in the same and like manner as is herein granted to any one county of this State.~~

~~[d. Provided that such Commissioners Courts of such counties may cooperate with any incorporated city or town within such county or counties on such conditions and requirements as may be promulgated by such Commissioners Court or Courts.~~

~~[e. Whenever any county herein authorized to create such a revolving fund ceases to participate therein the issuing officer appointed under the provisions hereof shall forthwith reduce all stamps to their equivalent in money and return such moneys then on hand to the fund from which same was originally appropriated and render a full account of his administration thereof to the Commissioners Court or Courts as the case may be.~~

~~[18(a) The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is empowered in all cases where said county has heretofore acquired, or may hereafter acquire, land for an airport through purchase or gift from any person or source whatever, including the Federal Government, or any agency thereof, to lease said land and/or the facilities thereof, or any part thereof to any person or corporation upon such terms as the Commissioners Court shall deem advisable for airport purposes, or other purposes, provided any such lease is not inhibited by the terms of the grant to such county. Said counties through such Commissioners Courts are also hereby expressly authorized and empowered to contract with reference to oil, gas or other minerals or natural resources which may be vested in said counties by virtue of the ownership of such airports and to execute and deliver to any person upon such conditions and for such consideration, including oil payments, gas payments, over-riding royalties, etc. as the Commissioners Court may deem advisable, mineral deeds or mineral leases of all or any part of said minerals, or the rights thereto, which are vested in the county and to generally contract for the exploration and development of the minerals underlying said land or any part thereof.~~

~~[(b) The proceeds from the sale of any minerals or mineral rights, or the consideration for the execution of any mineral leases, including cash bonuses, delay rentals and royalties, need not be devoted to the maintenance, upkeep, improvement and operation of such airport, but may be expended by the Commissioners Court for any lawful purpose.~~

~~[(c) The proceeds received, or to be received from any person from the lease of the surface of said land, or from the lease of the facilities thereof, or any part thereof, for purposes other than airport purposes, or for purposes other than those relating to the operation of an airport, may likewise be expended by the Commissioners Court for any lawful purpose.~~

~~[(d) The proceeds received, or to be received, from any person for any lease of the surface of said land, or for the lease of the facilities thereof, or any part thereof, for airport purposes, or for purposes related to the operation of an airport, shall be devoted, first, to the maintenance, upkeep, improvement and operation of such airport and the facilities, structures and improvements thereof, but any surplus remaining at the close of any fiscal year of operation may be expended by such Commissioners Court for any lawful purpose.~~

~~[(e) The proceeds received, or to be received, from any charges for the use of said airport for airport purposes shall be devoted, first, to the maintenance, upkeep, improvement and operation of such airport and the facilities, structures and improvements thereof, but any surplus remaining at the close of the fiscal year of operation may be expended by the Commissioners Court for any lawful purpose.~~

~~[19(a) The Commissioners Court of each county of this State, in addition to the powers already conferred upon it by law, is expressly authorized and empowered to contract with the United States Government, or with any agency thereof, and particularly with the Federal Works Administrator, the Housing and Home Finance Administrator, and/or the National Housing Administrator, or their successor or successors, for the acquisition of any land, or interest in land, in such county, owned by the United States Government, or any agency thereof, and for the acquisition of any temporary housing on land which the United States Government, or any agency thereof, may own or control; and each such county in this State is authorized and empowered to acquire by purchase, gift or otherwise, any such land and any such housing from the United States Government, or any agency thereof, and to own and operate such land and housing.~~

~~[(b) Each Commissioners Court in this State is authorized and empowered to adopt a resolution or order requesting the transfer to said county of any such land or housing, or interest therein, which the United States Government, or any agency thereof, is now, or may be hereafter, authorized to convey or transfer to such county, and each such county, through its Commissioners Court, is expressly authorized and empowered to bind itself to comply with any and all terms and conditions which the United States Government, or any agency thereof, may impose as a prerequisite to the transfer or conveyance of any of such land or housing, or either of them, or any interest therein; and any instrument or deed conveying to said county any such land or any such housing, or any interest therein, may contain any conditions and provisions, covenants and warranties which may be prescribed by the United States Government, or any agency thereof, and agreed upon by said county acting through its Commissioners Court, provided that such terms and conditions are not inhibited by the Constitution of the State of Texas.~~

~~[(c) For the purpose of purchasing or otherwise acquiring said lands or housing, or both, and improving, enlarging, extending or repairing the same, the Commissioners Court of any county may issue negotiable bonds of the county and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and the levying and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of Texas, 1925, as amended.~~

~~[(d) Counties are expressly authorized and empowered to lease or rent any lands, housing, or facilities acquired by them pursuant to this Act and to establish and revise the rent or charges therefor; to arrange or contract for the furnishing by any person or agency, public or private, of services, or facilities for, or in connection with, any of such lands, housing or facilities, or the occupants thereof;~~

~~[(e) Said counties are further authorized to sell and convey all or any part of the land or housing so acquired or to lease or exchange same; and said counties are further expressly authorized to execute oil, gas or mineral leases covering all or any part of said lands so acquired on such terms and conditions as may be deemed advisable by the Commissioners Court and for such consideration, including oil payments, gas payments, overriding royalties, etc. as may be deemed advisable; and such counties, through their Commissioners Courts, are expressly authorized and empowered to execute conveyances of minerals or mineral rights, and to generally contract for the exploration and development of the minerals underlying said land, if any, or any part thereof.~~

~~[20. The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is authorized and empowered in all cases where such county has acquired a water supply from subterranean waters for county purposes, to sell, contract to sell and deliver any or all of such water which is not needed for county purposes to any public or municipal corporation, or political subdivision of this State, including any water control and improvement district, or fresh water supply district now created and existing, or which may hereafter be created under the laws of this State; any such water sold or contracted to be sold and delivered to any such public or municipal corporation or political subdivision of this State, may be used or re-sold for any lawful purpose; and said Commissioners Court shall have the right to fix and determine the rate or rates at which such water shall be sold to any such public or municipal corporation or political subdivision of this State, and to enter into contracts to sell and supply such water at such determined rate or rates for any term of years not exceeding forty (40); and all monies received by the county from the sale of such water shall be placed to the credit of the General Fund of the county and may be expended for general county purposes as now or hereafter permitted by law.]~~

SECTION 11. CONFORMING AMENDMENT. Sections 1, 8, 10, and 11, Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1. (a) The word "city" as used in this Act shall include all cities and towns incorporated under General or Special Laws, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

The term “governing body” as used in this Act shall include the governing body of every city, whether designated as “Board of Aldermen,” “City Council,” “City Commission,” or otherwise.

For the purposes of this Act the term “current funds,” shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

The term “bond funds” shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

The term “time warrant” as used in this Act shall include any warrant issued by a city not payable out of current funds.

~~[The term “exempted procurements” shall include any of the following:~~

~~[(1) procurements made in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens or to preserve the property of the city;~~

~~[(2) procurements necessary to preserve or protect the public health or safety of the citizens of the city;~~

~~[(3) procurements made necessary by unforeseen damage to public property, machinery, or equipment;~~

~~[(4) procurements for personal or professional services;~~

~~[(5) procurements for work done and paid for by the day, as such work progresses;~~

~~[(6) the purchase of land or right-of-way; and~~

~~[(7) procurements where the functional requirements of the city can be satisfied by only one source. By way of example without limitation, this provision shall apply to procurements where competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies; purchase of films, manuscripts, or books; purchases of electric power, gas, water, and other utility services; and the purchase of captive replacement parts or components for equipment.~~

~~[The term “high technology procurement” means the procurement of equipment, goods, or services of a highly technical nature, including but not limited to: information processing equipment, software and firmware used in conjunction with information processing equipment, telecommunications equipment, radio and microwave systems, electronic distributed control systems (including building energy management systems) as well as technical services related to such equipment and goods.]~~

~~(b) The short title of this Act shall be “Bond and Warrant Law of 1931.”~~

~~[Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session, provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.]~~

Sec. 8. It is hereby made the duty of all Commissioners’ Courts and of all governing bodies, as the case may be, to levy, and have assessed and collected, taxes sufficient to pay the interest as it accrues and the principal as it matures on all bonds ~~[and time warrants]~~ issued in accordance with the provisions of this Act *and time warrants issued under Chapter 252, Local Government Code*. The same duties in reference to the levying, assessment and collection of taxes, as are imposed by the provisions of Chapters 1 and 2, of Title 22, Revised Civil Statutes of 1925, to assure the payment of taxes on bonds therein authorized, are imposed on said Commissioners’ Courts and said governing bodies in reference to all bonds ~~[and time warrants]~~ issued in accordance with this Act *and time warrants issued under Chapter 252, Local Government Code*; provided that if a tax, meeting the requirements of Article 11, Sections 5 and 7 of the Constitution shall have been levied to pay principal and interest thereon, any bond or warrant may

thereafter be funded or refunded through the issuance of funding or refunding bonds or warrants irrespective of the fact that due to decline of property values or for other reasons, the City or County seeking to issue such funding or refunding bonds or warrants does not then have available taxing power sufficient to pay the principal and interest of such funding or refunding bonds or warrants.

Sec. 10. ~~[In all cities operating under Special Charter the provisions of this Act shall apply, providing for a referendum vote where the proposed expenditure is not payable out of current funds, or bond funds, and requires the issuance of time warrants in excess of the permitted amount. This Act shall not repeal provisions of Special Charters providing any additional rights to referendum elections.]~~ The rights, power and duties conferred on and imposed on all cities in reference to the issuance of funding or refunding bonds and warrants shall be applicable to all cities, irrespective of charter provisions to the contrary. All laws, General and Special, and parts of laws in conflict herewith are hereby expressly repealed. ~~[Article 2368, Revised Civil Statutes of 1925, is expressly repealed.]~~

Sec. 11. Nothing in this Act or in Chapter 252, Local Government Code, ~~[herein]~~ shall be so construed as to preclude any city or town in this State, whether organized under General or Special Law or operating under Special Charter, from encumbering or mortgaging its light system, water system, sewer system or any other utility, either, both or all, and the franchise and the income thereof and everything pertaining thereto acquired or to be acquired, to secure the payment of funds to purchase same or to make or purchase extensions, additions, or improvements thereto, as contemplated in Articles 1111 to 1118, both inclusive, of the Revised Civil Statutes of Texas, 1925, with amendments thereto, or by valid provisions of the charter of such city or town, or by the provisions of Section 402.002, Local Government Code, and ~~[Article 1175, Revised Civil Statutes of Texas, 1925]~~, provided that in making such contracts or agreements or encumbrances and in issuing revenue bonds, warrants or other obligations to be paid out of the property and income from such system or systems, the governing body of such city or town shall comply with the provisions of this Act and Chapter 252, Local Government Code, in regard to notice and competitive bids and the right to a referendum of such question.

Provided, however, that no competitive bids shall be required in case the municipality proposes to acquire an existing utility plant, and in such cases the voters shall be entitled to a referendum, only on the question of whether or not the utility shall be purchased, in the manner and under the conditions set forth in this Act.

~~[Provided, further, that notwithstanding any provisions of this Act, and notwithstanding any provision of its Special Charter, if such city or town is acting under authority of House Bill No. 981, passed by the Regular Session of the 42d Legislature, the requirements of this Act in reference to notice, competitive bids and the rights to referendum shall not apply until after June 1, 1932.]~~

SECTION 12. CONFORMING AMENDMENT. Section 3, Chapter 476, Acts of the 55th Legislature, Regular Session, 1957 (Article 2370b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. To pay for the purchase, construction, reconstruction, remodeling, improvement and equipment of any ~~[such]~~ building or buildings or ~~[and/or]~~ jail or jails under Section 292.001, Local Government Code, including the purchase and improvement of the site or sites therefor, the Commissioners Court is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, which taxes shall be levied, pursuant to the authority of Article 8, Section 9 of the Constitution of the State of Texas, as amended, for permanent improvement fund purposes; and such bonds may mature serially or otherwise as may be determined by the Commissioners Court of the county, not exceeding forty (40) years from their date, and such bonds may contain such option or options of redemption or no option of redemption as may be determined by the Commissioners Court; and the issuance of such bonds and the levy and collection of such taxes shall otherwise be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, governing the issuance of bonds by cities, towns and/or counties in this State.

SECTION 13. CONFORMING AMENDMENT. Article 2568, Revised Statutes, is amended to read as follows:

Art. 2568. FOR STATE FUNDS. If any State funds are in a ~~the~~ county depository which has failed, the amount thereof shall be ascertained by the Comptroller, who shall be authorized in his discretion to enter into a contract for the custody and payment of the same, with the special depository selected *under Subchapter A, Chapter 131, Local Government Code*, by the county authorities in the same manner that the county authorities are herein authorized so to do, and to take and approve contracts and bonds therefor. State funds thus placed in such special depository shall bear the average rate of interest received by the State on State funds placed with the regularly selected State depositories.

SECTION 14. CONFORMING AMENDMENT. Article 2569, Revised Statutes, is amended to read as follows:

Art. 2569. SELECTION OPTIONAL. Nothing in *Article 2568, Revised Statutes*, ~~this chapter~~ shall require ~~the~~ State~~[-county, city or district]~~ authorities to select any special depository as herein permitted, but they may proceed by their lawful remedies against the failed bank, if, in their discretion, it is best for the public interest so to do.

SECTION 15. CONFORMING AMENDMENT. Article 3908, Revised Statutes, is amended to read as follows:

Art. 3908. TO ITEMIZE COSTS. None of the fees mentioned in this title *or in Chapter 118, Local Government Code*, shall be payable to any person whomsoever until there be produced, or ready to be produced, unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the clerk or officer to whom such fees are due, or by whom the same are charged, or by the successor in office, or legal representative of such clerk or officer.

SECTION 16. CONFORMING AMENDMENT. Article 3909, Revised Statutes, is amended to read as follows:

Art. 3909. EXTORTION. If any officer named in this title *or in Chapter 118, Local Government Code*, shall demand and receive any higher fees than are prescribed to them in this title, or any fees that are not allowed by this title, such officer shall be liable to the party aggrieved for fourfold the fees so unlawfully demanded and received by him.

SECTION 17. CONFORMING AMENDMENT. Article 5972, Revised Statutes, is amended to read as follows:

Art. 5972. "INCOMPETENCY." ~~(a)~~ By "incompetency" as used herein ~~[and for purposes of Article XV, Section 6, of the Texas Constitution]~~ is meant gross ignorance of official duties, or gross carelessness in the discharge of them; or an officer may be found to be incompetent when, by reason of some serious physical or mental defect, not existing at the time of his election, he has become unfit or unable to discharge promptly and properly the duties of his office.

~~[(c) In the case of a county treasurer, "incompetency" also includes the failure to complete a course of continuing education in accordance with Article 1705a, Revised Statutes.]~~

SECTION 18. CONFORMING AMENDMENT. Subchapter A, Chapter 24, Government Code, is amended by adding Section 24.021 to read as follows:

Sec. 24.021. INCOMPETENCY. For purposes of Article XV, Section 6, of the Texas Constitution, "incompetency" means:

- (1) gross ignorance of official duties;*
- (2) gross carelessness in the discharge of official duties; or*
- (3) inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the judge's election. (V.A.C.S. Art. 5972, Sec. (a).)*

SECTION 19. CONFORMING AMENDMENT. Article 5986, Revised Statutes, is amended to read as follows:

Art. 5986. NOT RETROACTIVE. (a) No officer in this State shall be removed from office for any act he may have committed prior to his election to office.

(b) *The prohibition against the removal from office of a mayor or alderman of a general law municipality for an act committed prior to his election is covered by Section 21.002, Local Government Code. The prohibition against the removal from office of a county or precinct officer for an act committed prior to his election is covered by Chapter 87, Local Government Code.*

SECTION 20. CONFORMING AMENDMENT. Section 26.002, Government Code, is amended by adding Subsection (c) to read as follows:

(c) *All terms of court must be held at the county seat. (V.A.C.S. Art. 1602.)*

SECTION 21. CONFORMING AMENDMENT. Section 6.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 6.002. CITIES EXEMPT FROM SECURITY FOR COURT COSTS. (a) Security for costs may not be required of an incorporated city or town of this state in an action, suit, or proceeding.

(b) *A home-rule municipality may institute and prosecute suits without giving security for cost and may appeal from judgment without giving supersedeas or cost bond. (V.A.C.S. Art. 1174.)*

SECTION 22. CONFORMING AMENDMENT. Section 12.002, Property Code, is amended to read as follows:

Sec. 12.002. SUBDIVISION PLAT; PENALTY. (a) *The county clerk may not record a [A map or] plat or replat of a subdivision [or resubdivision] of real property [may not be recorded] unless it is approved as provided by law [authorized] by the appropriate county or municipal authority [city].*

(b) *A person may not file for record or have recorded in the county clerk's office a plat or replat of a subdivision of real property unless it is approved as provided by law by the appropriate county or municipal authority.*

(c) *A person who subdivides real property may not use the subdivision's description in a deed of conveyance or contract of sale that is delivered to a purchaser unless the plat or replat of the subdivision is approved and is filed for record with the county clerk of the county in which the property is located.*

(d) *A county clerk commits an offense if the clerk violates Subsection (a) in regard to a plat or replat required to be approved by a municipal authority. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.*

(e) *A person commits an offense if the person violates Subsection (b) or (c). An offense under this subsection is a misdemeanor punishable by a fine of not less than \$10 or more than \$500, by confinement in the county jail for a term not to exceed 90 days, or by both the fine and confinement. Each violation constitutes a separate offense and also constitutes prima facie evidence of an attempt to defraud.*

~~[(b) If the real property is located five miles or more outside the corporate limits of a city or town, the commissioners court of the county in which the land is located must authorize the map or plat by order duly entered in the minutes of the court.~~

~~[(c) If the real property is located in or within five miles of the corporate limits of a city or town, the governing body or planning commission of the municipality must authorize the map or plat as provided by Chapter 231, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 974a, Vernon's Texas Civil Statutes).]~~

(f) ~~[(d)]~~ This section does not apply to a partition by a court.

SECTION 23. CONFORMING AMENDMENT. Chapter 223, Parks and Wildlife Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REGULATION OF LAKE SABINE

BY CITY OF PORT ARTHUR

Sec. 223.021. RECREATIONAL USE OF LAKE SABINE. The governing body of the city of Port Arthur, with respect to the waters of Lake Sabine within the corporate limits of the city, may designate or otherwise regulate by ordinance certain areas of the lake as bathing, fishing, swimming, recreational, or other restricted areas and may adopt rules relating to that regulation.

Sec. 223.022. USE OF TRAPS FOR CRAB OR OTHER WATER LIFE. Notwithstanding any law or a rule of a state agency permitting the taking of crabs or other sea or water life by the use of traps, the governing body of the city of Port Arthur may designate or otherwise regulate by ordinance the location and placement of traps in the waters of Lake Sabine within the corporate limits of the city.

Sec. 223.023. REGULATION OF BOAT SPEEDS. Notwithstanding any other state law or rule, the governing body of the city of Port Arthur may by ordinance regulate the speed of boats on Lake Sabine within the corporate limits of the city. (V.A.C.S. Art. 1187g.)

SECTION 24. CONFORMING AMENDMENT. Section 11.013(c), Natural Resources Code, is amended to read as follows:

(c) The gulfward boundaries of any city, town, or village created and operating under the general laws of the State of Texas shall not be established or extended by incorporation or annexation more than 5,280 feet gulfward beyond the coastline. *The governing body of such a city, town, or village may, by ordinance, extend the municipal boundaries up to 5,280 feet gulfward. Any*~~[, and any]~~ inclusion of territory in any such city, town, or village more than 5,280 feet gulfward beyond the coastline is void. The term "coastline" as used in this subsection means the line of mean low tide along that portion of the coast which is in direct contact with the open Gulf of Mexico. The term "city, town, or village created and operating under the general laws of the State of Texas" shall not include any city operating under a home-rule charter.

If any such general-law city, town, or village has heretofore been established by incorporation or attempted incorporation more than 5,280 feet gulfward beyond the coastline, the corporate existence of such general-law city, town, or village is in all things validated, ratified, approved, and confirmed.

The boundaries of such general-law city, town, or village, including the gulfward boundaries to the extent of 5,280 feet gulfward beyond the coastline, are in all things validated, ratified, approved, and confirmed and shall not be held invalid by reason of the inclusion of more territory than is expressly authorized in Article 971, Revised Civil Statutes of Texas, 1925, as amended, or by reason of the inclusion of territory other than that which is intended to be used for strictly town or city purposes as required by *Section 7.002, Local Government Code* [~~Article 1134 of the Revised Civil Statutes of Texas, 1925, as amended,~~] or by reason of not constituting a city, town, or village.

Neither this Act nor the general laws nor the special laws of the state shall have the effect of validating, ratifying, approving, or confirming the inclusion of territory in any such general-law city, town, or village more than 5,280 feet gulfward beyond the coastline.

If for any reason it should be determined by any court of competent jurisdiction that any such general-law city, town, or village has heretofore been incorporated in violation of the laws of the state in effect as of the date of such incorporation or is invalid, the corporate boundaries of any such general-law city, town, or village shall be revised and reformed to exclude all territory more than 5,280 feet gulfward of the coastline. (V.A.C.S. Art. 974g-2.)

SECTION 25. CONFORMING AMENDMENT. Chapter 23, Natural Resources Code, is amended by adding Section 23.017 to read as follows:

Sec. 23.017. ABOLITION OF OFFICE IN CERTAIN COUNTIES. In a county in which the office of county surveyor was abolished by Chapter 315, Acts of the 61st Legislature, Regular Session, 1969 (Article 5298a, Vernon's Texas Civil Statutes), the

commissioners court may, when the court considers it necessary, employ a qualified person to perform a function formerly performed by the county surveyor. (V.A.C.S. Art. 5298a.)

SECTION 26. CONFORMING AMENDMENT. Chapter 24, Education Code, is amended by adding Section 24.011 to read as follows:

Sec. 24.011. MUNICIPAL ESTABLISHMENT AND SUPPORT OF PUBLIC SCHOOLS. (a) A home-rule municipality may provide for the establishment of public schools and a public school system in the municipality.

(b) A home-rule municipality has exclusive control over public schools and a public school system established under authority of this section and may adopt rules it considers advisable for the management of the schools and system.

(c) A home-rule municipality may impose and collect general or special taxes necessary for the support of the municipal public schools and school system. (V.A.C.S. Art. 1175, Subdiv. 32.)

SECTION 27. TRANSITION SECTION. Section 215.001, Local Government Code, does not affect a violation occurring before June 15, 1985, of a municipal regulation invalidated by Chapter 838, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015p, Vernon's Texas Civil Statutes), which is codified as Section 215.001. A proceeding to punish the violation may be instituted and liability or a penalty may be imposed as if Chapter 838, Acts of the 69th Legislature, Regular Session, 1985, had not been enacted and as if Section 215.001, Local Government Code, were not in force. The municipal regulation is continued in effect for this purpose.

SECTION 28. CONFORMING AMENDMENT. If the proposed Chapter 25, Government Code, is not enacted by the 70th Legislature, Regular Session, or does not become law, Section 5(b), Chapter 771, Acts of the 61st Legislature, Regular Session, 1969 (Article 1970-141.2, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The judges of the county courts at law now in existence or which shall hereafter be created in El Paso County [~~and the judge of the county court~~] shall receive an annual salary in an amount not to exceed nine-tenths of the total annual salary, including supplements, paid any district judge sitting in El Paso County. The salary shall be paid out of the general fund of El Paso County in equal monthly installments by warrants drawn on the county treasury on orders of the Commissioners Court of El Paso County. The judge of the county court and the judges of each county court at law in El Paso County shall not collect any fee from the county for disposing of any criminal case.

SECTION 29. CONFORMING AMENDMENT. Section 13.253(c), Agriculture Code, is amended to read as follows:

(c) A public weigher elected under this section serves for a term of two years and may be removed from office under *Chapter 87, Local Government Code* [~~Article 5970, Revised Civil Statutes of Texas, 1925~~].

SECTION 30. CONFORMING AMENDMENT. Section 20.923, Education Code, is amended to read as follows:

Sec. 20.923. OTHER LAWS NOT APPLICABLE. Section 272.001, Local Government Code [~~Chapter 455, Acts of the 61st Legislature, Regular Session, 1969 (Article 5421e-12, Vernon's Texas Civil Statutes)~~], Chapter 26, Parks and Wildlife Code, and all other general laws affecting or pertaining to the sale of public property shall not apply to sales of real property pursuant to this subchapter.

SECTION 31. CONFORMING AMENDMENT. Section 51.12(c), Family Code, is amended to read as follows:

(c) In each county, the judge of the juvenile court and the members of the juvenile board shall personally inspect the detention facilities at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities that they are suitable or unsuitable for the detention of children in accordance with:

- (1) the requirements of Subsection (a) of this section;

(2) the requirements of *Subchapter A, Chapter 351, Local Government Code*, [~~Article 5115, Revised Civil Statutes of Texas, 1925, as amended, defining "safe and suitable jails,"~~] if the detention facility is a county jail; and

(3) recognized professional standards for the detention of children deemed appropriate by the board, which may include minimum standards promulgated by the Texas Juvenile Probation Commission. The juvenile board shall annually provide to the Texas Juvenile Probation Commission a copy of the standards used under this section.

SECTION 32. CONFORMING AMENDMENT. Section 30.003(c), Government Code, is amended to read as follows:

(c) The court has jurisdiction over cases arising outside the territorial limits of the city under the ordinances authorized by *Sections 215.072, 217.042, 341.903, and 401.002, Local Government Code* [~~Subdivision 19 of Article 1175, Revised Statutes~~].

SECTION 33. CONFORMING AMENDMENT. Section 30.035(c), Government Code, is amended to read as follows:

(c) The court has jurisdiction over cases arising outside the territorial limits of the city under ordinances authorized by *Sections 215.072, 217.042, 341.903, and 401.002, Local Government Code* [~~Subdivision 19, Article 1175, Revised Statutes~~].

SECTION 34. CONFORMING AMENDMENT. Section 30.083(c), Government Code, is amended to read as follows:

(c) The court has jurisdiction over cases arising outside the territorial limits of the city under the ordinances authorized by *Sections 215.072, 217.042, 341.903, and 401.002, Local Government Code* [~~Subdivision 19 of Article 1175, Revised Statutes~~].

SECTION 35. CONFORMING AMENDMENT. Section 30.143(c), Government Code, is amended to read as follows:

(c) The court has jurisdiction over cases arising outside the territorial limits of the city under the ordinances authorized by *Sections 215.072, 217.042, 341.903, and 401.002, Local Government Code* [~~Subdivision 19 of Article 1175, Revised Statutes~~].

SECTION 36. CONFORMING AMENDMENT. Section 30.323(c), Government Code, is amended to read as follows:

(c) The court has jurisdiction over criminal cases arising under ordinances authorized by *Sections 215.072, 217.042, 341.903, and 401.002, Local Government Code* [~~Subdivision 19, Article 1175, Revised Statutes~~].

SECTION 37. CONFORMING AMENDMENT. Section 43.180(d), Government Code, is amended to read as follows:

(d) The allocation formerly made under Section 6(a), Chapter 465, Acts of the 44th Legislature, 2nd Called Session, 1935 (Article 3912e, Vernon's Texas Civil Statutes), *now codified as Section 154.008, Local Government Code*, to the criminal district attorney of Harris County shall be made and allocated on the same basis to the district attorney in the General Appropriations Act.

SECTION 38. CONFORMING AMENDMENT. Section 11.0131(e), Natural Resources Code, is amended to read as follows:

(e) A home-rule city may create industrial districts in the area that is outside the city limits and that is located in an area formed in the manner prescribed by Subsection (b) of this section except that the lines drawn under Paragraph (B) of Subdivision (1), Paragraph (B) of Subdivision (2) or Paragraph (A) of Subdivision (3) of Subsection (b) may be extended for no more than five statute miles instead of one marine league. The governing body of such city shall have the right, power, and authority to designate the area described as an industrial district, as the term is customarily used, and to treat such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any city is the right and power to enter into contracts or agreements with the owner(s) or lessee(s) of land in such industrial district upon such terms and considerations as the parties might deem appropriate. The city shall have no authority to regulate oil and gas exploration, production, and transportation operations in an industrial district established pursuant to this Act, but in consideration of such relinquishment and the relinquishment of other rights under

~~Section 42.044, Local Government Code [Section 5, Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes)],~~ the city is expressly authorized to require payments of a property owner or lessee(s) in such industrial district in an amount not to exceed 35 percent of the revenue that would be produced if the city imposed a property tax in the industrial district. Nothing herein shall prohibit a city and property owner or lessee(s) from agreement by contract for payments in a lesser amount.

SECTION 39. CONFORMING AMENDMENT. Section 62.001(d), Natural Resources Code, is amended to read as follows:

(d) The provisions of this chapter do not prohibit the creation of, or limit the lawful actions of, a beach park board of trustees of a home-rule city as provided in *Chapter 306, Local Government Code* [~~Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962, as amended (Article 6081g-1, Vernon's Texas Civil Statutes)~~].

SECTION 40. CONFORMING AMENDMENT. Section 151.003(b), Natural Resources Code, is amended to read as follows:

(b) The brand shall be recorded in a book kept by the county clerk for that purpose or on microfilm as permitted in *Chapter 194, Local Government Code* [~~Article 1941(a), Revised Civil Statutes of Texas, 1925~~].

SECTION 41. CONFORMING AMENDMENT. Section 151.004(b), Natural Resources Code, is amended to read as follows:

(b) The person who floats the logs or timber shall file the report required in Subsection (a) of this section with the county clerk of the county in which the timber was cut. The county clerk shall record and index the report in a book kept for that purpose or on microfilm as permitted in *Chapter 194, Local Government Code* [~~Article 1941(a), Revised Civil Statutes of Texas, 1925~~].

SECTION 42. CONFORMING AMENDMENT. Section 6.11(b), Tax Code, is amended to read as follows:

(b) The board of directors is subject to the same requirements and has the same powers regarding the following matters as apply to a commissioners court under *the* [The] Certificate of Obligation Act of 1971 (*Subchapter C, Chapter 271, Local Government Code*) [~~(Article 2368a.1, Vernon's Texas Civil Statutes)~~]:

- (1) notice of the contract;
- (2) issuance of the contract to the lowest responsible bidder;
- (3) rejection of bids;
- (4) expenditure of funds on the completion and acceptance of the contract;
- (5) exceptions to the competitive bidding requirement;
- (6) change orders; and
- (7) effect of noncompliance with the competitive bidding requirements.

SECTION 43. CONFORMING AMENDMENT. Section 113.205, Tax Code, is amended to read as follows:

Sec. 113.205. PURPOSE. This subchapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it. The fees specified under the provisions of this subchapter for filing and indexing a notice of lien or certificate or notice affecting a tax lien shall be assessed in lieu of fees for such filing and indexing provided in *Subchapter B, Chapter 118, Local Government Code* [~~Article 3930, Revised Civil Statutes of Texas, 1925, as amended~~].

SECTION 44. CONFORMING AMENDMENT. Section 171.072, Tax Code, is amended to read as follows:

Sec. 171.072. EXEMPTION—HOUSING FINANCE CORPORATION. A housing finance corporation incorporated under the Texas Housing Finance Corporations Act (*Chapter 394, Local Government Code*) [~~(Article 12691-7, Vernon's Texas Civil Statutes)~~] is exempted from the franchise tax.

SECTION 45. CONFORMING AMENDMENT. Section 11.136(b), Water Code, is amended to read as follows:

(b) When the county clerk receives the permit and is paid the recording fee (as prescribed by *Subchapter B, Chapter 118, Local Government Code* [~~Article 3930, Revised Civil Statutes of Texas, 1925, as amended~~]), he shall file and record the permit in a well-bound book kept for that purpose. He shall index the permit alphabetically in the name of the applicant and of the stream or source of water supply. After he has recorded the permit, the county clerk shall deliver the permit, on demand, to the applicant.

SECTION 46. CONFORMING AMENDMENT. Section 51.149(d), Water Code, is amended to read as follows:

(d) If a joint contract entered into by a district under this section contemplates the construction of property, works, improvements, facilities, plants, equipment, or appliances, the contract may be awarded only after the districts have sought competitive bids and have complied with other procedures as provided by *Subchapter B, Chapter 271, Local Government Code* [~~Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes)~~], and Sections 51.139 through 51.146 of this code to the extent that those sections do not conflict with *Subchapter B, Chapter 271, Local Government Code* [~~Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes)~~].

SECTION 47. CONFORMING AMENDMENT. Section 65.001(8), Water Code, is amended to read as follows:

(8) "Extraterritorial jurisdiction" means the extraterritorial jurisdiction of a city as determined under *Chapter 42, Local Government Code* [~~defined in the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes)~~].

SECTION 48. CONFORMING AMENDMENT. Section 66.206, Water Code, is amended to read as follows:

Sec. 66.206. BIDS ON CONTRACTS. Contracts entered into under Section 66.205 of this code requiring an expenditure of more than \$10,000 may be made only after competitive bidding as provided by *Subchapter B, Chapter 271, Local Government Code* [~~Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes)~~].

SECTION 49. REPEALER. The following laws are repealed:

(1) the following articles and acts, as compiled in Vernon's Texas Civil Statutes: 46e-1; 46e-2; 46e-3; 46e-4; 46e-5; 46e-6; 46e-7; 46e-8; 46e-9; 46e-10; 46e-11; 46e-12; 46e-13; 46e-14; 46e-15; 332c; 664-7; 689a-9; 689a-9a; 689a-10; 689a-11; 689a-12; 689a-13; 689a-14; 689a-15; 689a-16; 689b; 961; 961a; 961b; 961b-1; 962; 963; 965; 966; 966a; 966b; 966c; 966d; 966d-1; 966e; 966f; 966g; 966h; 966i; 967; 968; 969; 969a; 969a-1; 969b; 969d; 970; 970a; 970b; 971; 971a; 972; 973; 973a; 973b; 974; 974a; 974a-1; 974a-2; 974a-3; 974b; 974c; 974c-1; 974c-2; 974c-3; 974c-4; 974c-5; 974c-6; 974c-7; 974d; 974d-1; 974d-2; 974d-3; 974d-4; 974d-5; 974d-6; 974d-7; 974d-8; 974d-9; 974d-10; 974d-11; 974d-12; 974d-13; 974d-14; 974d-15; 974d-16; 974d-17; 974d-18; 974d-19; 974d-20; 974d-21; 974d-22; 974d-23; 974d-24; 974d-25; 974d-26; 974d-27; 974d-28; 974d-29; 974d-30; 974d-31; 974d-32; 974d-33; 974d-34; 974d-35; 974e; 974e-1; 974e-2; 974e-3; 974e-4; 974e-5; 974e-6; 974e-7; 974e-8; 974f; 974f-1; 974f-2; 974f-3; 974g; 974g-1; 974g-2; 974-1; 974-2; 975; 976; 976a; 976b; 976c; 977; 978; 978a; 979; 980; 980a; 980b; 983; 987; 988a; 988b; 989; 990; 991; 992; 993; 994; 995; 996; 997; 998; 998a; 999; 999a; 999b; 999c; 999d; 999d-1; 999f; 1000; 1000a; 1001; 1002; 1004; 1005; 1006; 1007; 1008; 1009; 1010; 1010a; 1011; 1011a; 1011b; 1011c; 1011d; 1011e; 1011e-1; 1011f; 1011g; 1011h; 1011j; 1011k; 1011l; 1011m; 1012; 1013; 1014; 1015a; 1015a-1; 1015e; 1015i; 1015j; 1015j-1; 1015k; 1015l; 1015n; 1015o; 1015o-1; 1015p; 1017; 1019; 1021; 1023a; 1024; 1024a; 1024b; 1025; 1035; 1044a; 1067; 1068; 1069; 1070; 1070b; 1076; 1077; 1105a; 1107; 1108; 1109; 1109a-3; 1109b; 1109d; 1109e; 1109e-1; 1109e-2; 1109f; 1109f-1; 1109g; 1109i; 1109i-1; 1109j; 1110; 1110b; 1110c; 1110e; 1110g; 1110h; 1118a-1; 1118q-1; 1133; 1134; 1134a; 1134b; 1134c; 1134d; 1135; 1136; 1137; 1138; 1139; 1139a; 1140; 1141; 1142; 1143; 1144; 1145; 1145a; 1147; 1152; 1153; 1153a; 1154; 1155; 1156; 1157; 1158; 1159; 1160; 1161; 1162; 1163; 1164; 1164a; 1164b; 1164c; 1164a-1; 1164a-2; 1164a-3; 1164a-4; 1164a-5; 1164a-6; 1164a-7; 1164a-8; 1164a-9; 1164a-10; 1165; 1166; 1167; 1168; 1169; 1170; 1170a; 1172; 1173; 1174; 1174a; 1174a-1; 1174a-2; 1174a-3; 1174a-4; 1174a-5; 1174a-6; 1174a-7; 1174a-8; 1174a-9; 1174a-10; 1174a-11; 1174a-12; 1174b; 1174c; 1174d; 1174e; 1175a; 1175c; 1175d; 1175f; 1176; 1176a; 1176b-1; 1176b-2;

1177; 1178; 1179; 1180; 1180a; 1182a; 1182b; 1182c; 1182c-1; 1182c-2; 1182c-4; 1182c-5; 1182c-6; 1182d; 1182d-1; 1182g; 1182i; 1183; 1184; 1185; 1186; 1187; 1187-1; 1187g; 1188; 1188-(a); 1189; 1190; 1191; 1191a; 1192; 1193; 1193a; 1193b; 1241a; 1244; 1245; 1246; 1247; 1248; 1249; 1250; 1251; 1252; 1253; 1254; 1255; 1256; 1257; 1258; 1259; 1260; 1262; 1263; 1265; 1265a; 1266; 1267; 1268a; 1268b; 1269a; 1269b; 1269c; 1269d; 1269e; 1269f; 1269h-3; 1269j-3; 1269j-4.12; 1269j-4.35; 1269j-4.5; 1269j-4.6; 1269j-12; 1269k; 1269k-2; 1269k-3; 1269k-4; 1269l; 1269l-1; 1269l-3; 1269l-4; 1269l-7; 1269m; 1269n; 1269o; 1269p; 1269q; 1269r; 1269s; 1539; 1540; 1541; 1542; 1543; 1544; 1545; 1546; 1547; 1548; 1549; 1550; 1551; 1552; 1553; 1554; 1555; 1556; 1557; 1558; 1559; 1560; 1561; 1562; 1563; 1564; 1565; 1566; 1566a; 1567; 1568; 1569; 1570; 1571; 1572; 1573; 1574; 1575; 1576; 1577; 1577a; 1577b; 1577c; 1578; 1578a; 1579; 1580; 1581; 1581a; 1581b; 1581b-1; 1581b-2; 1581c; 1581d; 1581d-1; 1581e; 1581e-1; 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