

VERNON'S CIVIL STATUTES
TITLE 71. HEALTH--PUBLIC
CHAPTER 4A. SANITATION AND HEALTH PROTECTION

Art. 4477-7j. GAINES COUNTY SOLID WASTE MANAGEMENT ACT.

ARTICLE 1. GENERAL PROVISIONS

Sec. 1.01. PURPOSE. The purpose of this Act is to establish an instrumentality to develop and carry out for Gaines County a regional water quality protection program through solid waste management and regulation of waste disposal in accordance with state law.

Sec. 1.02. FINDINGS AND DECLARATION OF POLICY. (a) The legislature finds that:

(1) the quality of water in Gaines County may be materially affected by the management of solid waste throughout the county;

(2) a countywide or regional effort to provide for the management of solid waste in accordance with state and federal law is far more effective than each incorporated or unincorporated community providing solid waste management services;

(3) solid waste, as well as other waste, may impair water quality by seepage or drainage; and

(4) creation of the Gaines County Solid Waste Management District would advance the established policy of this state to maintain the quality of the water in the state consistent with:

(A) the public health and public enjoyment;

(B) the propagation and protection of terrestrial and aquatic life;

(C) the operation of existing industries; and

(D) the economic development of the state.

(b) The legislature finds that this Act is in compliance with Article XVI, Sections 59(d) and (e), of the Texas Constitution and that the legislature has the power and authority to enact this Act.

(c) The legislature finds that all of the area included in the district is benefited by the exercise of the power conferred by this Act.

Sec. 1.03. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the district.

- (2) "Commission" means the Texas Water Commission.
- (3) "County" means Gaines County, Texas.
- (4) "Department" means the Texas Department of Health.
- (5) "Director" means a member of the board.
- (6) "District" means the Gaines County Solid Waste Management District created under this Act.
- (7) "Industrial solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.
- (8) "Local government" means an incorporated municipality, a county, or a water or other special district or authority acting under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution.
- (9) "Municipal solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.
- (10) "Outside the district" means the area contained in counties adjacent to the district.
- (11) "Person" means an individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate, or any other legal entity.
- (12) "Resource recovery facility" means a facility used to store, handle, sort, bail, recycle, process, and recover solid waste.
- (13) "Rule" includes regulation.
- (14) "Sewage" has the meaning assigned by Section 366.002, Health and Safety Code.
- (15) "Solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.
- (16) "Solid waste management system" means a system for controlling all aspects of the collection, handling, transportation, processing, recovery, and disposal of solid waste.
- (17) "Water" means groundwater, percolating or otherwise, lakes, bays, ponds, springs, rivers, streams, creeks, and all other bodies of surface water, natural or artificial, that are wholly or partially within the district.
- (18) "Water pollution" means the alteration of the physical, chemical, or biological quality of or the contamination of water

that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or that impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

ARTICLE 2. CREATION OF DISTRICT; INITIAL APPOINTMENT OF BOARD

Sec. 2.01. CREATION OF DISTRICT. Pursuant to Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district to be known as the Gaines County Solid Waste Management District is created as a governmental agency and body politic and corporate of the state.

Sec. 2.02. DESCRIPTION. The district's territory consists of the area within the boundaries of Gaines County.

Sec. 2.03. APPOINTMENT OF INITIAL DIRECTORS. (a) On or after the effective date of this Act, the Commissioners Court of Gaines County shall appoint three persons, the governing body of the city of Seminole shall appoint two persons, and the governing body of the city of Seagraves shall appoint two persons to serve as initial directors of the district. The four persons appointed by the governing bodies of the cities of Seminole and Seagraves shall represent the municipalities within the county, and the three persons appointed by the Commissioners Court of Gaines County shall represent the unincorporated areas of the county.

(b) A vacancy on the initial board shall be filled in the same manner as the original appointment for the unexpired term.

(c) The Commissioners Court of Gaines County and the governing bodies of the cities of Seminole and Seagraves shall each appoint one initial director to serve a term expiring on May 1 of the first year after the year in which the original appointment is made. In addition, the Commissioners Court of Gaines County shall appoint two initial directors and the governing bodies of the cities of Seminole and Seagraves shall each appoint one initial director to serve terms expiring on May 1 of the second year after the year in which the original appointment is made. Successor directors serve two-year terms.

Sec. 2.04. CONFIRMATION AND TAX ELECTION. The directors shall call and hold an election within the boundaries of the proposed district to determine if the proposed district will be

created and a tax authorized.

Sec. 2.05. NOTICE OF ELECTION. (a) Notice of the confirmation and tax election shall state the day and places for holding the election, the proposition to be voted on, and list the appointed directors.

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

Sec. 2.06. BALLOT PROPOSITION. The ballot shall be printed to permit voting for or against the proposition: "The creation of the Gaines County Solid Waste Management District and the levy of a maintenance and operating tax in an amount not to exceed five cents on each \$100 valuation." The ballot shall include the names of the persons appointed as directors for the district.

Sec. 2.07. CANVASSING RETURNS. (a) Immediately after the confirmation and tax election, the presiding judge of each polling place shall deliver returns of the election to the board, and the board shall canvass the returns and declare the result.

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

(c) If a majority of the voters at the election vote against the creation of the district, the board may call and hold additional confirmation and tax elections, but another election to confirm creation of the district may not be called and held by the board before the first anniversary of the most recent confirmation and tax election. If the creation of the district is not confirmed on or before the fifth anniversary of the effective date of this Act, this Act expires.

Sec. 2.08. BOND PROPOSITION AT CREATION ELECTION. At an election to confirm creation of the district and authorize the levy of taxes, the board may include a separate proposition on the ballot

to approve the issuance by the district of bonds payable wholly or partially from property taxes. The notice of the election under Section 2.05 of this Act must state the bond proposition that is to appear on the ballot. The ballot shall be printed to permit voting for or against the proposition: "The issuance of bonds in the amount of \$_____ payable wholly (or partially) from property taxes for (STATE PURPOSE FOR WHICH BOND PROCEEDS TO BE USED) and the levy of taxes in payment of those bonds." If a majority of the voters at the election approve the bond proposition, the board shall declare the result and enter it in its minutes, and the district, if its creation is confirmed, may issue the bonds in the amount authorized for the purpose authorized and may levy and collect taxes necessary to pay the principal of and interest on the bonds. If a majority of the voters at the election do not approve the bond proposition, the temporary board shall declare the result and enter it in its minutes, and the district, if its creation is confirmed, may not issue the bonds payable in whole or in part by property taxes. The board shall file a copy of the bond election results with the commission.

ARTICLE 3. DISTRICT ADMINISTRATION

Sec. 3.01. BOARD OF DIRECTORS. (a) The district is governed by a board of directors composed of seven voting members who are appointed as provided by this Act. However, the district shall change to a system of electing the voting directors if:

(1) the Commissioners Court of Gaines County and the governing bodies of the cities of Seminole and Seagraves each pass a resolution calling for the election of the directors; or

(2) the board receives a petition signed by at least 150 registered voters of Gaines County calling for the election of the directors.

(b) If the resolution is passed or the petition presented to the board as provided by Subsection (a) of this section, a directors' election shall be held on the first Saturday in May that occurs after the resolution is passed or the petition presented. The board by order may postpone the election date for one year if:

(1) the election will occur within 60 days after the date the resolution is passed or the petition is presented; or

(2) the board determines that there is not sufficient time to comply with the requirements of law and to order the election.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1049, Sec. 9.01(a)(12), eff. September 1, 2011.

Sec. 3.02. METHOD OF ELECTION. (a) If directors are elected, one director shall be elected from each commissioner precinct and three directors shall be elected from the district at large.

(b) At the initial election of directors, the candidate receiving the highest number of votes from a commissioner precinct is the director for that precinct, and the three candidates receiving the highest number of votes from the district at large are the directors for the district at large. If two or more persons tie for the third-highest vote, the Commissioners Court of Gaines County shall select the third member from those trying for the place.

(c) The candidates elected from the odd-numbered precincts and the two candidates elected from the district at large who receive the highest number of votes at the initial election serve for a term of two years. The candidates elected from the even-numbered precincts and the candidate elected from the district at large who receives the third-highest number of votes at that election serve for a term of one year.

(d) After the initial election of directors, an election shall be held on the first Saturday in May each year and the appropriate number of successor directors shall be elected for two-year terms.

Sec. 3.03. QUALIFICATIONS FOR OFFICE. (a) To be eligible to be appointed as, to be a candidate for, or to serve as a voting director, a person must be:

- (1) a resident of the district; and
- (2) a qualified voter.

(b) In addition to the qualifications required by Subsection (a) of this section, a person who is elected from a commissioner precinct or who is appointed to fill a vacancy for a commissioner precinct must be a resident of that commissioner precinct.

(c) Each voting director must execute a bond in the amount of

\$5,000 with a corporate surety authorized to do business in this state and conditioned on the faithful performance of the director's duties.

Sec. 3.04. APPLICATION FOR ELECTION. (a) A person who wishes to have the person's name printed on the ballot at a directors' election as a candidate for director shall file an application with the secretary of the district.

(b) The application must specify the commissioner precinct the candidate wishes to represent or specify that the candidate wishes to represent the district at large.

Sec. 3.05. BEGINNING OF DIRECTOR'S TERM. A director shall take office at the first regular meeting of the board in May following the director's appointment or election and qualification.

Sec. 3.06. VACANCY ON BOARD. (a) If the directors are appointed, a vacancy on the board shall be filled in the same manner as the original appointment for the unexpired term.

(b) If the directors are elected, the vacancy of an elected director's position on the board shall be filled by appointment of the remaining members of the board until the next election of directors for the district. If that position is not scheduled to be filled at that election, the person elected to fill the position serves only for the remainder of the unexpired term.

Sec. 3.07. OATH. Each director shall file the statement and take the constitutional oath of office required of state officers.

Sec. 3.08. ORGANIZATION OF BOARD. (a) After each annual appointment or election of directors, the board shall hold a regular meeting in May at the district office and shall organize by electing from the members of the board one person to serve as chairman, one person to serve as vice-chairman, and one person to serve as secretary.

(b) A person selected to serve as chairman, vice-chairman, or secretary serves in that capacity for a term of one year.

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

(d) The chairman, vice-chairman, and secretary shall perform the duties and may exercise the powers specifically given them by

this Act or by orders of the board.

Sec. 3.09. MEETING AND ACTIONS OF THE BOARD. (a) The board shall meet at least one time each month and may meet at any other time.

(b) A majority of the voting members of the board constitute a quorum for the transaction of business of the district.

(c) Except as otherwise provided by this Act, the vote of a majority of the voting directors is required for board action.

(d) The board shall adopt bylaws at its first meeting or as soon after the first meeting as practicable. The board's bylaws must prescribe the powers, duties, and procedures for removal from a board office.

Sec. 3.10. OTHER OFFICERS. (a) The board may appoint a treasurer and an attorney for the district.

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

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

Sec. 3.11. INTEREST IN CONTRACT. A director who is financially interested in a contract to be executed by the district for the purchase of property or the construction of facilities shall disclose that fact to the other directors and may not vote on the acceptance of the contract.

Sec. 3.12. DIRECTOR'S COMPENSATION. (a) A director is entitled to receive \$25 a day and reimbursement for actual and necessary expenses incurred:

(1) for each day the director attends meetings of the board; and

(2) for each day the director attends to the business of the district that is authorized by board resolution or motion.

(b) A director is not entitled to receive a per diem allowance for more than 30 days in any one calendar year.

Sec. 3.13. GENERAL MANAGER; PERSONNEL. (a) The board may employ a general manager for a term and salary set by the board.

(b) The general manager is the chief executive officer of the

district. Under policies established by the board, the general manager is responsible to the board for:

- (1) administering the directives of the board;
- (2) keeping the district's records, including minutes of the board's meetings;
- (3) coordinating with state, federal, and local agencies;
- (4) developing plans and programs for the board's approval;
- (5) hiring, supervising, training, and discharging district employees;
- (6) contracting for or retaining technical, scientific, legal, fiscal, and other professional services; and
- (7) performing any other duty assigned to the general manager by the board.

(c) The board may discharge the general manager on a majority vote of all of the voting directors.

Sec. 3.14. DIRECTOR'S AND EMPLOYEE'S BONDS. (a) The general manager and each employee of the district charged with the collection, custody, or payment of any money of the district shall execute a fidelity bond. The board shall approve the form, amount, and surety of the bond.

(b) The district shall pay the premiums on the employees' bonds under this section.

Sec. 3.15. PRINCIPAL OFFICE. The district shall maintain its principal office inside the district's boundaries.

Sec. 3.16. RECORDS. (a) The district shall keep complete and accurate accounts of its business transactions in accordance with generally accepted methods of accounting.

(b) The district shall keep complete and accurate minutes of its meetings.

(c) The district shall maintain its accounts, contracts, documents, minutes, and other records at its principal office.

(d) Neither the board nor its employees may disclose a district record that relates to trade secrets or the economics of an industry's operations.

Sec. 3.17. CONTRACTS. The board may enter into contracts for administration or services as provided by this Act, and those contracts shall be executed by the board in the name of the

district.

Sec. 3.18. SUPERVISION OF DISTRICT. The district is subject to the continuing right of supervision by the state, in accordance with state law.

Sec. 3.19. SUITS; PAYMENT OF JUDGMENTS. (a) The district may, through its board, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be had by serving the general manager or other officers appointed by the board.

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

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

Sec. 3.20. SEAL. The board shall adopt a seal for the district and may alter the form of the seal from time to time.

ARTICLE 4. DISTRICT POWERS AND DUTIES

Sec. 4.01. GENERAL POWERS AND DUTIES. (a) The district shall administer and enforce this Act and shall use its facilities and powers to accomplish the purposes of this Act.

(b) After notice and hearing, the board may adopt rules necessary to carry out this Act. The board shall adopt rules providing procedures for giving notice and holding hearings.

(c) The district shall prepare and adopt plans for and shall purchase, obtain permits for, construct, acquire, own, operate, maintain, repair, improve, and extend inside and outside the boundaries of the district any works, improvements, landfills, recycling facilities, waste-to-energy facilities, composting facilities, transfer stations, storage sites, and other facilities, plants, pipelines, equipment, and appliances necessary to transport, process, dispose of, and control solid waste and to protect groundwater within the district in accordance with state law.

(d) The district shall acquire all permits required by state law that are necessary to carry out this article.

(e) The district may conduct studies and research for the

disposal of solid waste and the protection of water within the district.

(f) The regulatory powers of the district under this Act extend to every person within the district.

(g) Except as expressly limited by this Act, the district has all powers, rights, and privileges necessary and convenient for accomplishing the purposes of this Act conferred by general law on a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution.

(h) Subject only to the authority vested in other entities by general law, including those vested in the commission by Chapter 26, Water Code, and those vested in the department by Chapter 361, Health and Safety Code, the district may control water pollution within the district.

(i) The powers granted to the district by this Act are cumulative of all powers granted by other laws that are by their terms applicable to the district.

(j) The district may not provide solid waste collection services without an interlocal agreement approved by the county, the city of Seminole, and the city of Seagraves. However, the district shall purchase equipment, facilities, containers, and other necessary items for collection services if the district adopts a recycling program.

(k) The district may not contract with a person outside the boundaries of the district to provide to that person solid waste management services or any other service authorized under this Act.

Sec. 4.02. GIFTS, GRANTS, LOANS, AND OTHER FUNDS. To carry out any purposes or powers under this Act, the district may apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source.

Sec. 4.03. CONSULTATION, CONTRACTS, AND COOPERATION WITH OTHER GOVERNMENTAL AGENCIES AND ENTITIES. To carry out any purposes or powers under this Act, the district may advise, consult, contract, and cooperate with the federal government and its agencies, the state and its agencies, local governments, and private entities.

Sec. 4.04. ACQUISITION OF PROPERTY. The district may

acquire by gift, grant, devise, purchase, or lease any land, easements, rights-of-way, and other property interests inside the district necessary to carry out the powers and duties provided by this Act.

Sec. 4.05. EMINENT DOMAIN. (a) The district may acquire land within the district for the purposes authorized by Section 4.01(c) of this Act by condemnation if the board determines, after notice and hearing, that it is necessary.

(b) The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, but the district is not required to:

(1) deposit in the trial court money or a bond as provided by Section 21.021(a), Property Code;

(2) pay in advance or give bond or other security for costs in the trial court;

(3) give bond for the issuance of a temporary restraining order or a temporary injunction; or

(4) give bond for costs or supersedeas on an appeal or writ of error.

(c) If the district, in the exercise of the power of eminent domain, requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission and electric distribution, telegraph or telephone lines, conduits, poles or facilities, the district must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

Sec. 4.06. AUTHORITY TO ENTER INTO CONSTRUCTION, RENOVATION, AND REPAIR CONTRACTS. The district may contract with any person to construct, renovate, or repair any of its works, improvements, or facilities, or other plants, pipelines, equipment, and appliances and, from time to time, make improvements to them.

Sec. 4.07. BIDS ON CONTRACTS. Contracts entered into under Section 4.06 of this Act requiring an expenditure of more than \$15,000 may be made only after competitive bidding as provided by

Subchapter B, Chapter 271, Local Government Code.

Sec. 4.08. ATTACHMENTS TO CONTRACTS. A contract entered into under Section 4.06 of this Act must contain, or have attached to it, the specifications, plans, and details for work included in the contract, and work shall be done according to those plans and specifications under the supervision of the district.

Sec. 4.09. EXECUTION AND AVAILABILITY OF CONTRACTS. (a) A contract entered into under Section 4.06 of this Act must be in writing and signed by the contractor and a representative of the district designated by the board.

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

Sec. 4.10. CONTRACTOR'S BOND. (a) A contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district and approved by the board, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

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

Sec. 4.11. MONITORING WORK. (a) The board has control of construction, renovation, or repairs being done for the district under a contract entered into under Section 4.06 of this Act and shall determine whether or not the contract is being fulfilled.

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

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

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

with the contract.

Sec. 4.12. PAYMENT FOR WORK. (a) The district shall pay the contract price of construction, renovation, or repair contracts in accordance with this section.

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

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

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

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

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

Sec. 4.13. CONTRACTS FOR PURCHASE OF VEHICLES, EQUIPMENT, AND SUPPLIES OVER \$15,000. (a) If the estimated amount of a proposed contract for the purchase of vehicles, equipment, or supplies is more than \$15,000, the board shall ask for competitive bids as provided by Section 4.07 of this Act.

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

Sec. 4.14. ENTRY ON LAND. (a) The directors, the

engineer, and the employees of the district may go on any land inside or outside the boundaries of the district to make surveys and examine the land with reference to the location of works, improvements, and waste disposal, treatment, and other facilities, plants, pipelines, equipment, and appliances and to attend to business of the district.

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

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

Sec. 4.15. RIGHT TO USE ROAD RIGHT-OF-WAY. (a) The district has a right-of-way along and across all public state or county roads or highways; provided that a governmental entity having jurisdiction of such right-of-way may designate the place upon the right-of-way the facilities of the district shall be installed and may require the relocation of the facilities of the district to accommodate any widening or changing of traffic lanes.

(b) The district may not proceed with any action to change, alter, or damage facilities or property of the state without having first obtained the written consent of the governmental entity having control and jurisdiction of such facilities or property.

Sec. 4.16. FEES AND CHARGES. (a) The board may adopt and enforce all necessary charges, fees, or rentals, in addition to taxes, for providing any district facilities or services.

(b) The board may require a deposit for any services or facilities furnished and may or may not provide that the deposit will bear interest. The interest, if any, may accrue to the deposit or be used to offset amounts due.

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

Sec. 4.17. ACQUISITION OF EXISTING FACILITIES. If the district acquires existing works, improvements, facilities,

plants, pipelines, equipment, and appliances that are completed, partially completed, or under construction, the district may assume the contracts and obligations of the previous owner and perform the obligations of the previous owner in the same manner and to the same extent that any other purchaser or assignee would be bound.

Sec. 4.18. SOLID WASTE RESOURCE RECOVERY FACILITIES. The district may construct or acquire and operate solid waste resource recovery facilities inside the district.

Sec. 4.19. REGULATION OF SOLID WASTE MANAGEMENT. The district shall comply with all standards, laws, and rules relating to the operation for all aspects of solid waste handling, including storage, collection, recycling, incineration, sanitary landfill, or composting.

Sec. 4.20. ON-SITE SEWAGE DISPOSAL SYSTEMS. (a) The district may apply to the department for designation as an authorized agent to implement and enforce on-site sewage disposal rules under Chapter 366, Health and Safety Code.

(b) If the district finds that due to the nature of the soil or drainage in the area it is necessary to prevent water pollution that may injure the public health, the district by rule may:

(1) provide limits on the number and kind of septic tanks in an area defined by the rule;

(2) prohibit the use of septic tanks in the area; or

(3) prohibit the installation of new septic tanks in the area.

(c) The board shall consult the department and the commission before the adoption of a rule under Subsection (b) of this section.

(d) The board may not issue a rule under Subsection (b) of this section without first holding a public hearing in the area to be affected by the rule.

Sec. 4.21. SOLID WASTE MANAGEMENT CONTRACTS. (a) Unless otherwise provided by this Act, the district may contract to provide solid waste management services inside the district.

(b) The district shall set fees in a contract under Subsection (a) of this section after considering:

(1) the quality of the waste;

(2) the quantity of the waste;

(3) the difficulty encountered in treating or disposing of the waste;

(4) operation and maintenance expenses and debt retirement services; and

(5) any other reasonable considerations.

Sec. 4.22. AREAWIDE WASTE TREATMENT. The powers and duties conferred on the district are granted subject to the state policy to encourage the development and use of regional and integrated solid waste management systems to serve the needs of the citizens of the state.

ARTICLE 5. DISTRICT FINANCES

Sec. 5.01. FISCAL YEAR. (a) The district operates on the fiscal year established by the board.

(b) The fiscal year may not be changed more than once in a 24-month period.

Sec. 5.02. ANNUAL AUDIT. Annually, the board shall have an audit made of the financial condition of the district.

Sec. 5.03. ANNUAL BUDGET. (a) The board shall prepare and approve an annual budget for the district.

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

(1) the outstanding obligations of the district;

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

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

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

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

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

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

Sec. 5.04. AMENDING BUDGET. After adoption, the annual budget may be amended on the board's approval.

Sec. 5.05. LIMITATION ON EXPENDITURE. Money may not be spent for an expense not included in the annual budget or an

amendment to it unless the board by order declares the expense to be necessary.

Sec. 5.06. SWORN STATEMENT. As soon as practicable after the close of the fiscal year, the treasurer of the district shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

Sec. 5.07. DEPOSITORY. (a) The board shall name one or more banks to serve as depository for district funds.

(b) District funds, other than those transmitted to a bank for payment of bonds issued by the district, shall be deposited as received with the depository bank and must remain on deposit. This section does not limit the power of the board to invest the district's funds as provided by Section 5.08 of this Act.

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

Sec. 5.08. INVESTMENTS. (a) Funds of the district may be invested and reinvested by the board or its authorized representative in those investments specified by Article 836 or 837, Revised Statutes, or the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes).

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

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

Sec. 5.09. PAYMENT OF EXPENSES. (a) The district's directors may pay all costs and expenses necessarily incurred in

the creation, organization, and operation of the district, legal fees, and other incidental expenses and may reimburse any person for money advanced for those purposes.

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

Sec. 5.10. BORROWING MONEY. The district may borrow money for any purpose authorized under this Act or any combination of those purposes.

ARTICLE 6. BONDS

Sec. 6.01. AUTHORITY TO ISSUE BONDS. The board may issue and sell bonds in the name of the district to acquire land and construct works, improvements, and waste disposal, treatment, and other facilities, plants, pipelines, equipment, and appliances as provided by this Act.

Sec. 6.02. BOND PAYMENT. The board may provide for the payment of the principal of and interest on the bonds:

(1) from the levy and collection of property taxes on all taxable property within the district;

(2) by pledging all or part of the designated revenues from the ownership or operation of the district's works, improvements, and facilities; or

(3) from a combination of the sources listed by Subdivisions (1) and (2) of this section.

Sec. 6.03. BOND ELECTION. (a) Bonds may not be issued by the district until authorized by a majority vote of individuals qualified to vote and actually voting in the area within the boundaries of the district at an election called and held for that purpose.

(b) The board may order a bond election. The order calling the election must state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds to be authorized, and the maximum maturity of the bonds.

(c) Notice of a bond election must be given as provided by the Election Code.

(d) At an election to authorize bonds, the ballot must be

printed to provide for voting for or against the issuance of bonds and the levy of property taxes for payment of the bonds.

(e) The board shall canvass the returns and declare the results of the election. If a majority of the votes cast at the election favor the issuance of the bonds, the bonds may be issued by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds, the bonds may not be issued.

Sec. 6.04. TERMS; FORM. (a) The district may issue its bonds in various series or issues.

(b) Bonds may mature serially or otherwise not more than 50 years after the date of issuance and shall bear interest at a rate permitted by state law.

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

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

Sec. 6.05. BOND PROVISIONS. (a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds and may make additional covenants with respect to the bonds and the pledged fees.

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

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

(d) The board may adopt and have executed any other

proceedings or instruments necessary and convenient in the issuance of bonds.

Sec. 6.06. APPROVAL AND REGISTRATION. (a) Bonds issued by the district and the records relating to their issuance must be submitted to the attorney general for examination as to their validity.

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

(c) Following approval and registration, the bonds are incontestable and are binding obligations according to their terms.

Sec. 6.07. REFUNDING BONDS. (a) Refunding bonds of the district may be issued to refund and pay off an outstanding indebtedness the district has issued or assumed.

(b) The bonds must be issued in the manner provided by Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

(c) The refunding bonds may be sold and the proceeds applied to the payment of outstanding indebtedness or may be exchanged in whole or in part for not less than a similar principal amount of outstanding indebtedness. If the refunding bonds are to be sold and the proceeds applied to the payment of outstanding indebtedness, the refunding bonds must be issued and payments made in the manner provided by Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes).

Sec. 6.08. LEGAL INVESTMENTS; SECURITY FOR DEPOSITS. (a) District bonds are legal and authorized investments for:

- (1) a bank;
- (2) a savings bank;
- (3) a trust company;
- (4) a savings and loan association;
- (5) an insurance company;
- (6) a fiduciary;
- (7) a trustee;
- (8) a guardian; and
- (9) the sinking fund of a municipality, county, school

district, or other political subdivision of the state and other public funds of the state and its agencies, including the permanent school fund.

(b) District bonds may secure deposits of public funds of the state or a municipality, county, school district, or other political subdivision of the state. The bonds are lawful and sufficient security for deposits to the extent of their value, if accompanied by all unmatured coupons.

Sec. 6.09. MANDAMUS BY BONDHOLDERS. In addition to all other rights and remedies provided by law, if the district defaults in the payment of principal, interest, or redemption price on its bonds when due or if it fails to make payments into any fund or funds created in the orders or resolutions authorizing the issuance of the bonds or defaults in the observation or performance of any other covenants, conditions, or obligations set forth in the orders or resolutions authorizing the issuance of its bonds, the owners of any of the bonds are entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the district and its officials to observe and perform the covenants, obligations, or conditions prescribed in the orders or resolutions authorizing the issuance of the district's bonds.

Sec. 6.10. APPLICATION OF OTHER LAWS. Bonds of the district are considered bonds under the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes).

ARTICLE 7. TAXES

Sec. 7.01. TAX STATUS OF BONDS. Since the district created under this Act is a public entity performing an essential public function, bonds issued by the district, any transaction relating to the bonds, and profits made in the sale of the bonds are free from taxation by the state or by a municipality, county, special district, or other political subdivision of the state.

Sec. 7.02. LEVY OF TAXES. (a) The board may annually levy taxes in the district in an amount necessary to pay the principal of and interest on bonds issued by the district and the expense of assessing and collecting taxes.

(b) The district may annually levy and collect a maintenance and operating tax in an amount not to exceed five cents on each \$100

of assessed valuation of property in the district to pay maintenance and operating expenses of the district.

(c) The combined tax rate for all purposes may not exceed 10 cents on each \$100 of assessed valuation of property in the district.

Sec. 7.03. BOARD AUTHORITY. (a) The board may levy taxes for the entire year in which the district is created.

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

Sec. 7.04. TAX RATE. In setting the tax rate, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax collector.

Sec. 7.05. TAX APPRAISAL, ASSESSMENT, AND COLLECTION. (a) The Tax Code governs the appraisal, assessment, and collection of district taxes.

(b) The board may provide for the appointment of a tax collector for the district or may contract for the collection of taxes as provided by the Tax Code.

ARTICLE 8. CHANGE IN BOUNDARIES

Sec. 8.01. EXPANSION OF DISTRICT TERRITORY. (a) Registered voters of a defined territory that is not included in the district may file a petition with the secretary of the board requesting the inclusion of the territory in the district. The petition must be signed by at least 50 registered voters of the territory or a majority of those voters, whichever is less.

(b) The board by order shall set a time and place to hold a hearing on the petition to include the territory in the district. The board shall set a date for the hearing that is after the 30th day after the date the board issues the order.

(c) If after the hearing the board finds that annexation of the territory into the district would be feasible and would benefit the district, the board may approve the annexation by a resolution entered in its minutes. The board is not required to include all of the territory described in the petition if the board finds that a modification or change is necessary or desirable.

(d) Annexation of territory is final when approved by a majority of the voters at an election held in the district and by a majority of the voters at a separate election held in the territory to be annexed. If the district has outstanding debts or taxes, the voters in the election to approve the annexation must also determine if the annexed territory will assume its proportion of the debts or taxes if added to the district.

(e) The election ballots shall be printed to provide for voting for or against the following, as applicable:

(1) "Adding (description of territory to be added) to the Gaines County Solid Waste Management District."

(2) "(Description of territory to be added) assuming its proportionate share of the outstanding debts and taxes of the Gaines County Solid Waste Management District, if it is added to the district."

(f) The election shall be held after the 45th day and on or before the 60th day after the date the election is ordered. The election shall be ordered and notice of the election shall be given in accordance with the Election Code. Section 41.001(a), Election Code, does not apply to an election held under this section.

Acts 1991, 72nd Leg., ch. 670, Sec. 1, eff. June 16, 1991. Sec. 4.07 amended by Acts 1993, 73rd Leg., ch. 757, Sec. 31, eff. Sept. 1, 1993; Sec. 4.13 amended by Acts 1993, 73rd Leg., ch. 757, Sec. 32, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 5.03, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 5.04, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 9.01(a)(12), eff. September 1, 2011.