

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 5. TRANSPORTATION

SUBTITLE A. NAVIGATION DISTRICTS AND PORT AUTHORITIES

CHAPTER 5004. CYPRESS VALLEY NAVIGATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 5004.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of the board.

(3) "District" means the Cypress Valley Navigation District.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.002. NATURE OF DISTRICT. The district is a navigation, conservation, and reclamation district.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.003. LEGISLATIVE FINDINGS. (a) All land included in the district will benefit from the exercise of the power conferred by this chapter.

(b) The creation of the district is essential to accomplish the purposes of Section [59](#), Article XVI, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.004. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effect its purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.005. DISTRICT TERRITORY. The district is composed of all the territory in the watershed of the Cypress River and its tributaries in Harrison and Marion Counties as shown by the

state contour maps on file in the office of the Texas Commission on Environmental Quality, unless the district's territory is modified under:

(1) Section 3 or 3a, Chapter 103, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8263a, Vernon's Texas Civil Statutes), after August 30, 1965, and before August 30, 1971;

(2) Subchapter H, Chapter 62, Water Code; or

(3) other law.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.006. EFFECT OF CHAPTER ON NORTHEAST TEXAS MUNICIPAL WATER DISTRICT. It is recognized that the district boundaries described by Section 5004.005 partly overlap an area in the Northeast Texas Municipal Water District as created by Chapter 78, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-147, Vernon's Texas Civil Statutes). This chapter does not alter in any manner the rights, duties, privileges, powers, or immunities of that district.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 5004.051. COMPOSITION OF BOARD; TERMS. (a) All powers of the district shall be exercised by a board consisting of 10 directors.

(b) Directors serve staggered terms of two years, with the terms of:

(1) four directors expiring January 1 of even-numbered years; and

(2) six directors expiring January 1 of odd-numbered years.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.052. QUALIFICATIONS FOR OFFICE. To be eligible for appointment and to serve as a director, a person must:

- (1) be at least 18 years of age;
- (2) reside in the district and in Harrison or Marion County; and
- (3) possess the qualifications of a juror.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.053. APPOINTMENT OF DIRECTORS. At least 10 but not more than 30 days before the date on which a director's term of office expires, the commissioners court of the county of residence of the retiring director shall designate a successor.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.054. BOND. (a) Before assuming the director's duties, each director shall execute a good and sufficient bond in the amount of \$1,000, payable to the county judges of Harrison and Marion Counties, for the use and benefit of the district conditioned on the faithful performance of the director's duties.

(b) The district shall pay the cost of the bond.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.055. FILING OF OATH. Before assuming the duties of office, each director shall file with the board secretary-treasurer a copy of the constitutional oath of office taken by the director.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.056. VACANCIES. If a vacancy occurs on the board, the commissioners court of the county of residence of the retiring director shall fill the vacancy by appointment.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.057. COMPENSATION; EXPENSES. (a) A director may not be paid for services as a director or as a member of a committee authorized by the board.

(b) A director may be reimbursed for actual expenses incurred by the director in performing a service for the district but only from money raised in the director's county of residence. Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.058. REMOVAL FROM OFFICE. (a) A director or officer is subject to removal or suspension from office by the affirmative vote of 10 directors for incompetence, official misconduct, official gross negligence, habitual drunkenness, or nonattendance at six consecutive regular meetings of the board.

(b) A director or officer may not be removed or suspended from office until written charges are filed against the director or officer and the director or officer is given an opportunity for a fair hearing before the board. Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.059. OFFICERS. (a) At the first board meeting in January of each odd-numbered year, the board shall appoint by board majority:

(1) from the directors, a presiding officer, an assistant presiding officer, and a secretary-treasurer; and

(2) if considered proper, an assistant secretary and an assistant treasurer.

(b) The assistant secretary and assistant treasurer:

(1) are not required to be directors; and

(2) may be granted limited powers by the bylaws.

(c) Officers serve two-year terms, except that the assistant secretary and assistant treasurer, if appointed, hold office at the pleasure of the board.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.060. MEETINGS. (a) All regular and special board meetings shall be held as provided for by the bylaws.

(b) Notice of all regular and special board meetings shall be given as required by the bylaws.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 5004.101. GENERAL POWERS AND DUTIES. The district has:

(1) the powers of government and the authority to exercise the rights, privileges, and functions provided by this chapter; and

(2) all powers, rights, privileges, and functions conferred on navigation districts created under Section [59](#), Article XVI, Texas Constitution, and conferred on navigation districts by general law, except as expressly limited by this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.102. POWERS REGARDING CANALS, PORTS, WATERWAYS, AND FACILITIES. The district may:

(1) promote, construct, maintain, operate, make practicable, aid, and encourage the construction, maintenance, and operation of navigable canals or waterways and all navigational systems or facilities auxiliary to navigable canals or waterways, using the natural bed and banks of the Cypress River and its tributaries and of Caddo Lake where practicable;

(2) acquire, improve, extend, take over, construct, maintain, repair, operate, develop, and regulate ports, levees, wharves, docks, locks, warehouses, grain elevators, dumping facilities, aids to navigation, or aids consistent with or necessary to the operation or development of ports or waterways within the district; and

(3) construct, extend, improve, repair, maintain, reconstruct, own, use, and operate any facility of any kind

necessary or convenient to the exercise of the powers, rights, privileges, and functions granted by this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.103. BYLAWS AND RULES. The district may adopt bylaws and rules for the management, control, and regulation of its affairs.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.104. GIFT OR PURCHASE OF PROPERTY; EMINENT DOMAIN. (a) In this section, "property" means property of any kind, including a lighter, tug, barge, or other floating equipment of any nature.

(b) If necessary or convenient to exercising a power, right, privilege, or function conferred on the district by this chapter, the district:

(1) by gift or purchase may acquire property or an interest in property that is inside or outside the district boundaries; or

(2) by exercising the power of eminent domain may acquire property or an interest in property that is inside the district boundaries.

(c) The district must exercise the power of eminent domain in the manner provided by Chapter [21](#), Property Code, except that the district is not required to give bond for appeal or bond for costs in any judicial proceeding.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.105. SURPLUS PROPERTY. The district may sell or otherwise dispose of property or an interest in property of any kind that is not considered necessary to carrying on the business of the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.106. GENERAL AUTHORITY TO MAKE CONTRACTS AND EXECUTE INSTRUMENTS. The district may make a contract or execute an instrument necessary or convenient to exercising a power, right, privilege, or function conferred on the district by this chapter. Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.107. CONTRACTS WITH UNITED STATES. The district may:

(1) enter into a contract with the United States, including a contract to consummate or aid a navigation project approved or undertaken by the United States; and

(2) assume and become responsible for an obligation of the United States and enter into an agreement with the United States to hold and save the United States free from damages due to the construction and maintenance of navigation works in the district. Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.108. AUTHORITY TO SPEND MONEY FOR SEEKING COOPERATION. The district may spend any amount reasonably necessary or expedient for seeking cooperation from the federal government or any other person in accomplishing the objects of this chapter. Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.109. COOPERATION WITH OTHER GOVERNMENTAL ENTITIES CONCERNED WITH NAVIGATION ON BIG CYPRESS RIVER. The district shall cooperate with each commission, agency, district, or other governmental entity concerned with navigation on the Big Cypress River to all practical extent. Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.110. EMPLOYMENT OF OFFICERS AND EMPLOYEES. The

district may employ, prescribe the duties of, and set the compensation of officers, attorneys, agents, and employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.111. PERMITS. The district shall obtain from the Texas Commission on Environmental Quality any permit required by general law.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.112. AUTHORITY TO SUE AND BE SUED. The district may sue and be sued in its corporate name.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.113. SEAL. The district may adopt and use a corporate seal.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.114. RED RIVER COMPACT. The district shall comply with the Red River Compact. The creation of the district does not affect the compact.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 5004.151. FORM OF ACCOUNTS; MAINTENANCE OF RECORDS; PUBLIC INSPECTION. (a) The board shall keep complete and accurate accounts conforming to approved methods of bookkeeping.

(b) The accounts and all contracts, documents, and records shall be:

(1) kept at the district's office; and

(2) open to public inspection at all reasonable times.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04,



eff. April 1, 2009.

Sec. 5004.152. FILING COPIES OF AUDIT REPORT. Copies of the audit report prepared under Subchapter G, Chapter 49, Water Code, as required by Section 60.002 of that code, shall be filed:

- (1) as required by Section 49.194, Water Code; and
- (2) with the county clerks of Harrison and Marion Counties.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.153. PROCEDURE FOR DISTRIBUTION OF MONEY. District money shall be distributed only by check, voucher, draft, order, or other written instrument signed by a person authorized by board resolution to sign the instrument.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.154. BOND OF CERTAIN OFFICERS, AGENTS, AND EMPLOYEES. (a) Each officer, agent, or employee of the district who is charged with the collection, custody, or payment of district money shall give bond conditioned on the faithful performance of the person's duties and accounting for all money and property of the district coming into the person's hands.

(b) The bond must be in a form and manner and with a surety authorized to do business in this state approved by the board.

(c) The district shall pay the premium on the bond and charge the premium as an operating expense.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.155. AUTHORITY TO BORROW MONEY, ACCEPT GRANTS, AND ISSUE ASSOCIATED REVENUE BONDS. The district may:

(1) borrow money for its corporate purpose consistent with the constitution and general laws of this state;

(2) borrow money or accept a grant from the United States or from a corporation or agency created or designated by the

United States and, in connection with the loan or grant, enter into any agreement the United States or the corporation or agency requires; and

(3) issue bonds payable from revenue only for the money borrowed under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.156. AUTHORITY TO BORROW MONEY FOR CURRENT EXPENSES; EVIDENCE OF OBLIGATION. (a) The board may:

(1) borrow money for current expenses; and

(2) evidence the borrowed money by notes or warrants payable not later than the close of the calendar year for which the loan is made.

(b) The total amount of the notes or warrants may not exceed the anticipated revenue.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.157. NO AUTHORITY FOR AD VALOREM TAX. This chapter does not authorize the imposition of ad valorem taxes on any property in the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

#### SUBCHAPTER E. BONDS

Sec. 5004.201. DEFINITION. In this subchapter, "net revenue" means the gross revenue derived from the operation of the improvements and facilities of the district the income of which is pledged to the payment of district bonds less the reasonable expense of maintaining and operating those improvements and facilities, including necessary repair, upkeep, and insurance expenses for those improvements and facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.202. AUTHORITY TO ISSUE BONDS. (a) To provide money for any of the purposes provided by this chapter or other laws relating to navigation districts, the board may:

(1) issue district bonds that are secured solely by a pledge of and payable from the net revenue derived from the operation of all or a designated part of the improvements and facilities of the district then in existence or to be constructed or acquired; or

(2) issue district bonds secured by a pledge of all or part of the proceeds of one or more contracts previously or subsequently made or other revenue or income specified by board resolution.

(b) As long as bonds issued under Subsection (a)(1) are outstanding, the board shall charge and collect fees, tolls, and other charges sufficient to:

(1) pay all maintenance and operation expenses of the improvements and facilities the income of which is pledged;

(2) pay the interest on the bonds as it accrues;

(3) pay the principal of the bonds as they mature; and

(4) make any other payments prescribed in the bond order or resolution.

(c) All district bonds must be authorized by board resolution or order.

(d) Bonds payable solely from net revenue may be issued without an election.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.203. PROVISIONS OF BOND RESOLUTION OR ORDER; AUTHORITY TO ADOPT OR EXECUTE OTHER PROCEEDINGS OR INSTRUMENTS.

(a) In the resolution or order adopted by the board authorizing the issuance of bonds payable from net revenue or from the proceeds of a contract or contracts, the board may:

(1) provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve funds, and other funds;

(2) make any additional covenants for the bonds, the

pledged revenue, and the operation, maintenance, and upkeep of the improvements and facilities the income of which is pledged, including a provision for leasing all or part of the improvements and facilities and the use or pledge of money derived from those leases, as the board considers appropriate;

(3) prohibit the further issuance of bonds or other obligations payable from the pledged net revenue;

(4) reserve the right to issue additional bonds to be secured by a pledge of and payable from the net revenue on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to any conditions provided by the resolution or order; or

(5) include any other provision or covenant, as determined by the board, that is not prohibited by the Texas Constitution or this chapter.

(b) The board may adopt and execute any other proceeding or instrument necessary or convenient to issue the bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.204. FORM OF BONDS. District bonds must:

- (1) be issued in the district's name;
- (2) be signed by the presiding officer; and
- (3) be attested by the secretary-treasurer.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.205. MATURITY. District bonds must mature not later than 40 years after the date of their issuance.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.206. USE OF BOND PROCEEDS. The board may appropriate or set aside an amount of proceeds from the sale of any district bonds for:

(1) the payment of interest expected to accrue during construction of the improvements or facilities;

(2) reserve funds; and

(3) expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Sec. 5004.207. REFUNDING BONDS. (a) The board may issue refunding bonds of the district to refund any outstanding district bonds and accrued interest on those bonds.

(b) Refunding bonds may:

(1) be issued to refund more than one series or issue of the outstanding bonds;

(2) combine the pledges for the outstanding bonds for the security of the refunding bonds; and

(3) be secured by other or additional revenue.

(c) Refunding under this section may not impair the contract rights of the holders of any of the outstanding bonds that are not to be refunded.

(d) Refunding bonds must be authorized by board resolution or order and be executed and mature as provided by this chapter for original bonds.

(e) The comptroller shall register the refunding bonds on surrender and cancellation of the bonds to be refunded.

(f) Instead of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the district, in the resolution or order authorizing the issuance of the refunding bonds, may provide for the sale of the refunding bonds and the deposit of the proceeds in the place or places at which the bonds to be refunded are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the interest on the bonds to be refunded to their option date or maturity date, and the comptroller shall register the refunding bonds without the surrender and cancellation of the bonds to be refunded.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.