

TRANSPORTATION CODE

TITLE 6. ROADWAYS

SUBTITLE J. ROAD UTILITY DISTRICTS

CHAPTER 441. ROAD UTILITY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 441.001. DEFINITIONS. In this chapter:

(1) "Approval statement" means a statement that a governmental entity issues to a petitioner under Section 441.015.

(2) "Bonds" includes notes, warrants, or other evidence of indebtedness.

(3) "District" means a road utility district.

(4) "Governmental entity" means a municipality, a county, or the department.

(5) "Road" means a graveled or paved road or turnpike that serves or is intended to serve as an arterial or main feeder road under standards the commission prescribes.

(6) "Road facility" means:

(A) a road constructed, acquired, or improved by a district; or

(B) property, an easement, or works constructed, acquired, or improved by a district and necessary or appropriate for or in aid of the improvement of a river, creek, or stream to prevent overflow or the construction and maintenance of a pool, lake, reservoir, dam, canal, or waterway for the purpose of drainage, if the property, easement, or works is related to or in furtherance of the construction, acquisition, or improvement of a road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.002. COMMISSION RULES. The commission may adopt rules to implement this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 441.011. CREATION; PURPOSE. A district may be created under Section 52, Article III, Texas Constitution, to construct, acquire, improve, and provide financing for a road facility as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.012. TERRITORY. A district may contain all or part of one or more counties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.013. SUBMISSION OF PRELIMINARY PLAN. Before submitting a petition to create a district under Section 441.018, a person must submit a preliminary plan for each road facility the district is to construct, acquire, or improve to each governmental entity to which the road facility is to be conveyed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.014. REVIEW OF PRELIMINARY PLAN. (a) Not later than the 120th day and not earlier than the 90th day after the date a preliminary plan is submitted under Section 441.013, the governmental entity shall determine whether:

(1) the plan meets the governmental entity's requirements; and

(2) to approve the plan and accept the conveyance of the road facilities as provided by this chapter.

(b) The governmental entity shall consult with the person submitting the plan and, with that person's agreement, make changes necessary to make the plan comply with the governmental entity's requirements. The governmental entity's requirements may include specific designations of the characters of title to be required on conveyance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.015. GRANTING OR DENYING APPROVAL OF PRELIMINARY PLAN. (a) The governing body of a governmental entity that approves a preliminary plan and is willing to accept conveyance of the road facilities on acquisition or completion of construction or

improvement shall:

(1) issue an order approving the plan; and

(2) give the person who submitted the plan a written approval statement.

(b) An approval statement must state that the governmental entity approves the preliminary plan and will accept conveyance of the road facilities on acquisition or on completion of construction or improvement.

(c) If the governmental entity does not approve the plan and is not willing to accept a conveyance of the road facilities, the governing body of the governmental entity shall issue an order denying approval of the preliminary plan and refusing conveyance of the road facilities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.016. APPROVAL OF MULTIPLE GOVERNMENTAL ENTITIES.

(a) If road facilities constructed, acquired, or improved by a district are to be conveyed to more than one governmental entity, each governmental entity must:

(1) approve the plans for the road facilities to be conveyed to it; and

(2) issue an approval statement for those road facilities.

(b) The procedures in this chapter relating to approval and conveyance of a road facility to a governmental entity apply to each governmental entity to which a road facility is to be conveyed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.017. APPROVAL OF PRELIMINARY PLAN FOR ROAD FACILITY IN MUNICIPALITY OR MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION. (a) This section applies only to a district that:

(1) is located in whole or part in a municipality or the extraterritorial jurisdiction of a municipality; and

(2) constructs, acquires, or improves a road facility that is to be:

(A) located in a municipality or a municipality's extraterritorial jurisdiction; and

(B) conveyed to the county under Section 441.133.

(b) A county may not approve a preliminary plan or issue an approval statement for a road facility to which this section applies unless the person who seeks the approval agrees in writing to comply with the municipality's requirements for construction, acquisition, or improvement of a road facility in the municipality or the municipality's extraterritorial jurisdiction. The county shall consult the municipality to ensure that the preliminary plan complies with those requirements.

(c) Not later than the 55th day after the date the plan is filed with the county, a municipality must complete its review of the plan and issue to the county and the person who submitted the plan a written statement approving the plan as complying with the municipality's requirements. Except as provided by Subsection (d):

(1) the county may not issue an approval statement under Section 441.015 until it receives the written statement from each municipality; and

(2) the person petitioning for creation of the district must submit the municipality's written statement in addition to other required documents.

(d) If a municipality does not timely file its statement with the county:

(1) the municipality waives its right to review and approve the plan;

(2) the county may issue the approval statement without the municipality's statement;

(3) the person who submitted the plan may petition for creation of the district without the municipality's statement; and

(4) the county shall issue to the person who submitted the plan a letter explaining that the municipality's statement was not timely filed, and the person shall submit the letter with the petition to the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.018. PETITION REQUIRED. To create a district a person must file with the commission a petition requesting creation of the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.019. CONTENTS OF PETITION. (a) The petition must include:

- (1) the district's name;
- (2) the name of each county in which the district will be located;
- (3) a description of the district's boundaries;
- (4) each petitioner's name;
- (5) a statement that the petitioners hold title to all real property in the district, as shown on county tax rolls;
- (6) the names of suggested temporary directors;
- (7) a brief description of any road facility that the district is to construct, acquire, or improve;
- (8) the amount of bonds estimated to be necessary to finance the proposed construction, acquisition, or improvement;
- (9) the current appraised value of all real property in the district;
- (10) the name of each governmental entity to which the district will convey a road facility; and
- (11) other information that the commission considers necessary.

(b) The petition must be signed by the persons holding title to all real property in the district, as shown on county tax rolls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.020. FILING OF PRELIMINARY PLAN AND APPROVAL STATEMENT. (a) The petition must be accompanied by a copy of:

- (1) the preliminary plan for any road facility the district is to construct, acquire, and improve; and
- (2) each required approval statement.

(b) The commission may not consider a petition or approve a district unless each required approval statement for the district is filed with the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.021. PETITION FEE. (a) The petition must be

accompanied by a reasonable fee in an amount determined by the commission not to exceed \$5,000. The commission may not refund the fee or any part of the fee.

(b) The commission shall use the fee to pay costs of processing the petition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.022. HEARING REQUIRED. (a) As soon as practicable after the petition, preliminary plan, and each required approval statement is filed with the commission, the commission shall call and hold a hearing on the petition and preliminary plan.

(b) The hearing may be in Travis County or in a county in which all or part of the district is to be located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.023. NOTICE OF HEARING. (a) In addition to the notice requirements of Chapter 2001, Government Code, and not later than the 10th day before the date of the hearing, the commission shall give written notice of the hearing to:

(1) the commissioners court of each county in which all or part of the district is to be located; and

(2) the governing body of each municipality in which or in the extraterritorial jurisdiction of which the district is to be located.

(b) Once a week for two consecutive weeks the commission shall publish notice of the hearing in a newspaper of general circulation in each county in which the district is to be located. The first publication must be not later than 30 days before the date of the hearing.

(c) Not later than 30 days before the date of the hearing, the commission shall mail notice of the hearing by first class mail to each owner of real property to be included in the district, as shown on the county tax rolls.

(d) A county, municipality, or property owner receiving notice under Subsection (a) or (c) may appear at the hearing through an official representative or in person and may present testimony and evidence relating to the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.024. GRANTING OR DENYING PETITION. As soon as practicable after conclusion of the hearing, the commission shall adopt an order:

(1) granting the creation of the district and approving the plan; or

(2) denying the petition and disapproving the plan.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.025. GROUNDS REQUIRING GRANTING OF PETITION. The commission shall grant the creation of the district and approve the plan if it finds that:

(1) the creation of the district will benefit the real property in the district;

(2) each proposed road facility is feasible, practicable, and necessary and will benefit the district and the real property in the district;

(3) each governmental entity to which a road facility is to be conveyed has approved the preliminary plan for the road facility;

(4) the person seeking approval has agreed in writing to comply with the requirements of each municipality in which or extraterritorial jurisdiction of which a road facility is to be located, if the road facility is to be conveyed to a county;

(5) each governmental entity to which a road facility is to be conveyed has agreed, by issuing an approval statement, to accept the conveyance; and

(6) the district will be financially able to issue and pay its bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.026. GROUNDS REQUIRING DENIAL OF PETITION. The commission shall refuse to authorize creation of the district if the commission:

(1) finds that creation of the district will benefit none of the real property to be included in the district; or

(2) is unable to make any of the findings listed in Sections 441.025(2)-(6).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.027. OTHER CONSIDERATIONS IN GRANTING OR DENYING PETITION. Before the commission adopts an order under Section 441.024, it may:

(1) consult with each governmental entity that has submitted an approval statement regarding suggested changes in the plan;

(2) suggest or direct that the petitioners change the plan for a district road facility, including deleting a road facility, so as to make the plan acceptable to the commission; and

(3) consider the environmental effects of the proposals in the preliminary plan.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.028. ADJUSTMENT OF BOUNDARIES. If the commission finds that not all of the real property proposed to be included in the district will be benefitted by the creation of the district, the commission shall:

(1) make a finding on the lack of benefit;

(2) exclude from the district real property that will not be benefitted by creation of the district; and

(3) redefine the proposed district's boundaries according to the commission's changes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.029. TEMPORARY DIRECTORS. (a) If the commission authorizes the creation of the district, it shall appoint five persons from those suggested in the petition to serve as temporary directors of the district. Not later than the 10th day after the date of appointment, a temporary director shall take the oath of office.

(b) Temporary directors serve until the directors are elected and have qualified for office.

(c) If a person appointed by the commission fails to qualify



or if a vacancy occurs in the office of temporary director, the commission shall appoint another person to serve as temporary director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.030. CONFIRMATION ELECTION. (a) Not later than the 15th day after the date that all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election in the boundaries of the proposed district to confirm the creation of the district and elect the directors of the district.

(b) Section 41.001, Election Code, does not apply to an election under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.031. NOTICE OF CONFIRMATION ELECTION. (a) Not later than the 36th day before the date of the confirmation election, the temporary directors shall publish notice of the election once in one or more newspapers of general circulation in the proposed district.

(b) The notice must state:

- (1) the date and places for holding the election;
- (2) the proposition to be voted on; and
- (3) the candidates for director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.032. BALLOT FOR CONFIRMATION ELECTION. (a) To have a person's name printed on the ballot as a candidate for director, the person must file a petition with the temporary directors not later than the 31st day before the date of the election.

(b) The ballot for the election shall be printed to provide for voting for or against the creation of the district and include the names of the persons who have filed as candidates for director.

(c) A voter is entitled to vote for five candidates for director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.033. CANVASS. The temporary directors shall canvass the returns and declare the results.  
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.034. EFFECT OF CONFIRMATION ELECTION. (a) If the majority of the votes received in the election favor creation of the district, the temporary directors shall declare the district created. If the majority of the votes received in the election are against the creation of the district, the temporary directors shall declare the district defeated. The temporary directors shall enter the results in their minutes and file a copy of the results with the commission.

(b) If the district is created, the temporary directors shall declare the five candidates who received the highest number of votes to be elected as the directors of the district. If two or more candidates tie for the fifth highest number of votes, the temporary directors shall select the fifth director by lot from those tying for that position.

(c) The two directors elected with the fewest votes serve until the qualification of two directors elected at the next regular directors' election. The three other directors serve until the qualification of three directors elected at the second regular directors' election.

(d) If the district is defeated, another election may not be held to create the district, except that owners of the real property in the proposed district may petition the commission again for creation of a district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.035. INCLUDING BOND PROPOSITION AT ELECTION. (a) At the election, the temporary directors may include a separate ballot proposition to approve the issuance by the district of bonds payable from ad valorem taxes.

(b) If a bond proposition is to be included, the election notice under Section [441.031](#) must state the bond proposition.

(c) The bond proposition shall be printed to provide for

voting for or against the issuance of bonds and the imposition of ad valorem taxes for payment of the bonds.

(d) The temporary directors shall file a copy of the bond election results in their records and with the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER D. GOVERNANCE

Sec. 441.071. BOARD OF DIRECTORS. Except as provided by Section 441.072, a district is governed by a board of directors composed of five members elected as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.072. BOARD OF DIRECTORS IN CERTAIN DISTRICTS. (a) The governing body of a governmental entity to which a road facility has been conveyed under Section 441.133 is the ex officio board of directors of the district making the transfer if:

(1) all district road facilities are conveyed only to that governmental entity;

(2) all construction, acquisition, and improvement of road facilities provided for in the plan approved by the commission have been completed;

(3) the board of directors consents to the transfer of powers and duties to the governing body of the governmental entity;

(4) the governing body of the governmental entity consents to assuming the administrative powers and duties of the district; and

(5) the commission approves the transfer of the powers and duties.

(b) On the effective date of the transfer of the powers and duties, the board of directors from whom the transfer is made is dissolved. On and after that date the administrative powers and duties transferred are the powers and duties of the governing body of the governmental entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.073. ELECTION OF DIRECTORS. (a) In each year on a

uniform election date as provided by Chapter 41, Election Code, an election shall be held in the district to elect the appropriate number of directors.

(b) To have a person's name printed on the ballot at a directors' election as a candidate for director, the person must file a petition with the secretary of the district not later than the 36th day before the date of the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.074. TERM; TAKING OFFICE. (a) A director serves a two-year term.

(b) A director takes office at the first regular meeting of the board after the director's election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.075. COMPENSATION. A director is entitled to receive for the director's services:

(1) not more than \$25 a day for each meeting of the board that the director attends; and

(2) reimbursement for expenses incurred while engaged in the director's duties for the district as approved by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.076. VACANCY. A vacancy on the board shall be filled for the unexpired term by a person appointed by the remaining directors.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.077. OFFICERS. (a) After each directors' election, the board shall hold a regular meeting at a district office and elect from the directors a presiding officer, assistant presiding officer, secretary, and treasurer. A person elected under this subsection serves until the first regular board meeting following the next directors' election, and shall perform the duties and may exercise the powers specifically provided by this chapter or the board's orders.

(b) The presiding officer shall preside over board

meetings. If the presiding officer is absent, the assistant presiding officer shall preside.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.078. GENERAL MANAGER. The board may employ a general manager and delegate to the general manager full authority to manage and operate the affairs of the district, subject only to board orders. The general manager is the chief administrative officer of the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.079. OTHER OFFICERS. The board may appoint or employ an engineer, attorney, or accountant. A person appointed or employed under this section is entitled to compensation provided by the district's budget.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.080. PERSONNEL. (a) The board or the general manager, if the district has a general manager, may:

(1) employ persons necessary to carry out the business and operation of the district; and

(2) employ or contract with personnel necessary to carry out this chapter.

(b) The board shall determine the employees' terms of employment and compensation.

(c) A majority of the members of the board or the general manager, if the district has a general manager, may dismiss an employee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.081. OFFICER'S, EMPLOYEE'S, OR CONTRACTOR'S BOND.

(a) The board shall require each officer, employee, or person under contract to the district who collects, pays, or handles district money to furnish a bond.

(b) The bond must be:

(1) payable to the district;

(2) for an amount sufficient to protect the district

from financial loss resulting from the person's actions; and

(3) conditioned on the faithful performance of the person's duties and on accounting for all district money and other property under the person's control.

(c) The district shall pay for the bond.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.082. MEETINGS. (a) The board shall hold regular meetings on dates established by board order.

(b) The board may hold special meetings at the call of the presiding officer or on request of three members of the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.083. VOTE REQUIRED FOR ACTION. An action of the board requires the affirmative vote of a majority of the board members.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.084. RECORDS. The district shall keep a complete written account of all of its proceedings and securely maintain district records.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.085. OFFICE. The board shall maintain one or more offices for conducting district business.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.086. SEAL. The board shall adopt a seal for the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER E. POWERS AND DUTIES

Sec. 441.101. GENERAL POWERS AND DUTIES. (a) A district may:

(1) acquire a road facility, acquire property for a road facility, and construct or improve a road facility, inside or

outside district boundaries, as provided by this chapter;

(2) provide financing for a road facility or for construction, acquisition, or improvement of a road facility from money available to the district under this chapter;

(3) advise any person and consult, cooperate, or enter an agreement with any person;

(4) apply for, accept, receive, and administer a gift, grant, loan, or money available from any source;

(5) reimburse a private entity for money spent to construct a road or improvement that has been or will be dedicated or otherwise transferred to public use, or purchase a road or improvement constructed by a private entity, regardless of whether the construction occurs before or after the creation of the district; and

(6) exercise other powers and duties to accomplish the purposes for which the district was created.

(b) The board may contract with any person to carry out the powers and duties under this chapter. The board shall execute the contract in the name of the district.

(c) The district may assume a contract or other obligation of a previous owner of a road facility or property acquired by the district and perform the contract or obligation in the same manner as any other purchaser or assignee, if the contract or obligation was created as provided by the competitive bidding requirements of Subchapter B, Chapter 271, Local Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.102. RULES. After notice and hearing, the board shall adopt rules to carry out this chapter, including rules providing procedures for giving notice and holding hearings before the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.103. SUIT AND JUDGMENT. (a) A district, through its board and in the name of the district, may sue and be sued in a state court. Process in a suit may be served on the presiding officer of the board.

(b) A state court shall take judicial notice of the creation of the board.

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER F. ROAD FACILITIES

Sec. 441.111. CONSTRUCTION, ACQUISITION, OR IMPROVEMENT OF ROAD FACILITY. (a) A district shall construct, acquire, and improve a road facility included in the plan the commission approves so that the road facility meets the requirements of the plan.

(b) A district may not construct, acquire, or improve a road facility outside the district boundaries unless:

(1) the district presents to the commission sufficient evidence that the construction, acquisition, or improvement is of benefit to the district; and

(2) the commission and the governmental entity to which the road facility is to be conveyed approve the construction, acquisition, or improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.112. PROGRESS PAYMENTS. A contract of the district for the construction or improvement of a road facility may include a procedure for paying for the construction or improvement as work progresses.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.113. JOINT PROJECT. (a) A district contract with a state agency, a political subdivision, or a corporation created by the commission under Chapter 431 may:

(1) provide for joint payment of the costs of a project; and

(2) require the state agency, political subdivision,



or corporation to design, construct, or improve, including landscape, a project as provided by the contract.

(b) The district may issue bonds to pay all or part of the costs of the project and any other payments required under the contract.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.114. COMPETITIVE BIDS. A district may enter a construction or improvement contract requiring an expenditure of more than \$15,000 only after competitive bidding as provided by Subchapter B, Chapter 271, Local Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.115. CONTRACTOR BOND. A contractor shall execute a bond for the amount of the contract price. The bond must be payable to and approved by the board and conditioned on:

- (1) faithful performance of the contract obligations;
- and
- (2) payment to the district of damages resulting from any default.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.116. CHANGES TO ROAD FACILITIES. (a) Before a road facility is conveyed to a governmental entity, a district may make a change to the road facility that is not included in the plan approved by the commission if:

- (1) the board determines that the change is necessary to:
  - (A) comply with the requirements of the governmental entity to which the road facility is to be conveyed;
  - (B) comply with the requirements of each municipality in which or extraterritorial jurisdiction of which the road facility is to be located, if the road facility is to be conveyed to a county;
  - (C) provide an adequate and efficient road system for travelers in the district; or
  - (D) adjust to circumstances or requirements that

did not exist when the commission approved the original plan; and

(2) the commission approves the change in writing.

(b) Before approving the change, the commission shall consult the governmental entity to which the road facility is to be conveyed regarding the proposed change.

(c) Before making a change, a district to which Section 441.017 applies must receive written permission from the governmental entity assuming maintenance and any municipality in the extraterritorial jurisdiction of which the district is located.

(d) The commission shall adopt rules of procedure for:

(1) filing a request for a change; and

(2) approving a change.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.117. MONITORING WORK. (a) The board controls the construction, acquisition, and improvement of a district road facility until it is conveyed under Section 441.133. The board shall monitor a contractor's work as it is performed on the road facility and shall immediately act as necessary to ensure compliance with the contract. The board may use inspectors, engineers, or other district personnel as monitors.

(b) The board shall adopt a procedure for periodic reporting by the monitors.

(c) On completion of construction, acquisition, or improvement of the road facility, the monitors shall submit a written report to the board and the governmental entity to which the road facility is to be conveyed. The report must show whether the road facility complies with:

(1) the district's plan approved by the commission;

(2) the contract; and

(3) the requirements of the governmental entity to which the road facility is to be conveyed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER G. CONVEYANCE OF ROAD FACILITY

Sec. 441.131. HEARING ON FINAL APPROVAL. (a) After

receiving the report under Section 441.117(c), the board shall give notice of and hold a public hearing to determine whether a road facility:

(1) is complete as required by the district's plans and the contract; and

(2) should be conveyed to the governmental entity.

(b) At the hearing, the board may require the presentation of additional information or testimony necessary to make a determination.

(c) A representative of the governing body of the governmental entity to which the road facility is to be conveyed may present information and testimony that the governmental entity considers necessary.

(d) If the road facility is to be conveyed to a county, a representative of any municipality in which or extraterritorial jurisdiction of which the road facility is located may present information and testimony that the municipality considers necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.132. DECISION ON APPROVAL. (a) If the board determines at the end of a hearing under Section 441.131 that the work on the road facility is complete and the road facility should be conveyed to the governmental entity, the board shall order the conveyance subject to the requirements of this chapter. The board shall file with the commission a copy of the order and the proposed conveyance instrument.

(b) If the board determines that the work on the road facility has not been completed satisfactorily, the board shall act as necessary to complete the road facility as required by the district's plans and the contract. The district shall follow the procedures and requirements of Sections 441.117 and 441.131 before conveying the road facility to the governmental entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.133. CONVEYANCE REQUIRED. (a) A district shall convey a road facility to the governmental entity designated in the

district's petition to the commission on completion and approval by the board of the construction, acquisition, or improvement and on approval by the commission.

(b) The district shall convey the road facility free and clear of district indebtedness and may not convey a road that is encumbered.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.134. COMMISSION CONVEYANCE ORDER. (a) Except as provided by Subsections (b) and (c), the commission by order shall authorize the conveyance of a road facility to a governmental entity not later than the 15th day after the date that it receives a board's order to convey.

(b) The commission by order shall delay the conveyance until the district complies with the plans and written commission approvals if:

(1) the commission considers the road facility not to be completed according to the plans and written commission approvals;

(2) the governmental entity to which the road facility is being conveyed files a written protest; or

(3) a municipality in which or extraterritorial jurisdiction of which the road facility is located, if the road facility is being transferred to a county, files a written protest.

(c) An order under Subsection (b) must be issued not later than the 15th day after the later of the date that the commission receives the board's conveyance order or the date a protest is filed.

(d) The commission is not required to hold a hearing before making an order under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.135. TRANSFER OF OWNERSHIP AND RESPONSIBILITY.

(a) The governmental entity to which a road facility is conveyed is the owner of and has jurisdiction and sole control over the road facility.

(b) After the conveyance, the governmental entity is

responsible for all maintenance of the road facility and the district is not responsible for the road facility or its maintenance.

(c) This section does not affect the governmental entity's authority to alter, relocate, close, or discontinue maintenance of the road facility as provided by law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.136. EFFECT OF CONVEYANCE ON INDEBTEDNESS. Conveyance of a road facility to a governmental entity under this subchapter does not affect:

(1) the sole responsibility of the district to pay in full the principal of and interest and any premium on any outstanding district bonds or other indebtedness; or

(2) the district's responsibility to perform the obligations provided by the orders or resolutions authorizing the bonds or other indebtedness.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.137. PARTIAL CONVEYANCE. This chapter does not prevent conveyance of part of the road facilities that a district constructs in stages.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER H. FINANCIAL PROVISIONS

Sec. 441.151. FISCAL YEAR. (a) The board shall establish a fiscal year for the district.

(b) The board may not change the fiscal year more than once in a 24-month period.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.152. BUDGET. (a) The board shall prepare and approve an annual budget.

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

(1) the outstanding obligations of the district;

- (2) the amount of cash credited to each district fund;
- (3) the amount of money the district received 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 balances expected at the end of the year in which the budget is being prepared;
- (6) the estimated revenue and balances available to cover the proposed budget; and
- (7) the estimated tax rate that will be required.

(c) The board may amend the budget after adoption.

(d) Money may not be spent for an expense not included in the budget or an amendment to it unless the board by order declares the expense to be necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.153. AUDIT. The board shall have an annual audit made of the district's financial condition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.154. DEPOSITORY. (a) The board shall name one or more banks to serve as depository for district money.

(b) The district shall deposit money, other than money transmitted to a bank of payment for district bonds, with the depository bank as received. The money shall remain on deposit, except that this section does not limit the board's power to invest district money as provided by Section [441.156](#).

(c) The district may not deposit money in a bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation unless the bank executes a bond or provides other security in an amount sufficient to secure from loss district money that exceeds the amount secured by the Federal Deposit Insurance Corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.155. PAYMENT OF EXPENSES. (a) The district's directors may pay:

(1) costs and expenses necessarily incurred in the district's creation, organization, and operation;

(2) legal fees; and

(3) other incidental expenses.

(b) The district's directors may reimburse a person for money advanced for a purpose under Subsection (a).

(c) A payment may be made from the proceeds of district bonds, taxes, fees, or other district revenue.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.156. AUTHORIZED INVESTMENTS. (a) The board may invest the district's money in:

(1) a direct obligation of or obligation guaranteed directly or indirectly by the United States;

(2) an obligation, debenture, note, or other evidence of indebtedness issued or guaranteed directly or indirectly by the Association for Cooperatives, Federal Home Loan Association System, Export-Import Association of the United States, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Farmers' Home Administration, Tennessee Valley Authority, Farm Credit System, or Government National Mortgage Association, or by successor agencies;

(3) an obligation issued by a public agency or municipality and fully secured as to the payment of principal and interest by a pledge of annual contributions under an annual contributions contract with the United States;

(4) a temporary note, preliminary loan note, or project note issued by a public agency or municipality that is fully secured as to the payment of principal and interest by a requisition or payment agreement with the United States;

(5) a direct or general obligation of or obligation guaranteed by this state if the payment of the principal and interest is a general obligation of this state;

(6) a demand deposit or interest-bearing time deposit, certificate of deposit, or other similar banking arrangement that is made with a member of the Federal Deposit Insurance Corporation, if the deposit, to the extent not insured to its full amount, is

fully secured by obligations of the types specified by Subdivision (1), (2), (3), (4), (5), (9), or (10) that have a fair market value at least equal at all times to the amount of the deposit;

(7) a repurchase agreement with a bank that is a member of the Federal Deposit Insurance Corporation or with a member of the Public Securities Association, if the underlying securities are of the type described by Subdivision (1) or (2) and each is fully secured at all times by obligations of the same type that have a fair market value, including accrued interest, at least equal to the amount of the repurchase agreement including accrued interest;

(8) an interest-bearing time deposit or repurchase agreement with an agency or intermediary of the United States and that is described by Subdivision (1) or (2);

(9) an obligation of this state, another state of the United States, a nonprofit corporation, or an instrumentality of this state, another state, or a nonprofit corporation, if at the time of its purchase under the indenture, the obligation is rated in one of the two highest letter-rating categories by a nationally recognized securities credit rating agency; and

(10) an obligation issued by a political subdivision of this state, another state of the United States, a nonprofit corporation, or an instrumentality of this state, another state, or a nonprofit corporation, that is rated in one of the two highest letter-rating categories by a nationally recognized securities credit rating agency.

(b) The board may place the district's money in a certificate of deposit of a state or national bank or state or federal savings and loan association in this state if the money is secured in the manner required for security of the money of a county of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.157. INVESTMENT REPRESENTATIVE. The board by resolution may provide that an authorized representative of the district may invest the district's money and provide for money to be withdrawn from the appropriate accounts of the district for investment on terms the board considers advisable.



Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.158. BORROWING MONEY. The district may borrow money for any purpose authorized under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER I. BONDS

Sec. 441.171. ISSUANCE OF BONDS. The board may issue and sell bonds in the name of the district to construct, acquire, or improve district road facilities as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.172. TAX BOND ELECTION. (a) The district may not issue bonds secured by taxes unless the issuance of the bonds is approved at an election ordered by the board within the district boundaries for that purpose.

(b) The district may issue bonds not secured by taxes without an election.

(c) In addition to the requirements of the Election Code, the order shall state:

- (1) the nature of the election;
- (2) the hours during which polls will be open;
- (3) the location of polling places;
- (4) the amount of the bonds to be authorized; and
- (5) the maximum maturity of the bonds.

(d) Notice of the election must be given as provided by Section [441.031](#) for a confirmation and directors' election.

(e) The ballot at the election must be printed to provide for voting for or against the issuance of the bonds and the imposition of ad valorem taxes for payment of the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.173. FORM AND PROVISIONS OF BONDS. (a) The district may issue the bonds in various series or issues. The bonds may mature serially or otherwise not more than 50 years after their date. The bonds may be made redeemable before maturity at the

option of the district or may contain a mandatory redemption provision.

(b) An order or resolution of the board authorizing the issuance of the bonds, including refunding bonds, may:

(1) provide for the management of money;

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

(3) prohibit further issuance of bonds or other obligations payable from pledged fees or reserve the right to issue additional bonds 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; and

(4) contain other covenants and provisions as the board determines.

(c) The board may adopt and have executed other proceedings or instruments necessary and convenient in connection with the issuance of bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.174. EXAMINATION. District bonds and the records relating to their issuance shall be submitted to the attorney general for examination.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.175. REFUNDING BONDS. The district may issue refunding bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.176. TAX EXEMPTION. District bonds, a transaction relating to the bonds, and a profit made in the sale of the bonds are exempt from state or local taxation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.177. BONDHOLDER MANDAMUS. A holder of a district bond is entitled, in addition to any other right or remedy provided by state law, to a writ of mandamus requiring the district and its officials to perform any obligation that:

(1) is provided by the order or resolution authorizing issuance of the bond; and

(2) the district fails to perform, including:

(A) defaulting in the payment of principal, interest, or redemption price on the bond when due; and

(B) failing to make payment into any fund created in the order or resolution.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.178. USE OF BOND PROCEEDS. The district may use bond proceeds to:

(1) construct, acquire, or improve a road facility;

(2) pay an expense related to the road facility;

(3) pay, or establish a reasonable reserve to pay, not more than three years' interest on the district's bonds; and

(4) pay an expense related to issuance and sale of bonds as provided by the bond orders or resolutions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.179. DISPOSITION OF PROCEEDS. The district shall deposit the part of the purchase money of bonds that represents capitalized interest in a special account in the district depository and use that money to pay interest that comes due on bonds. Money remaining in that account after payment of the costs of issuance of the bonds shall be transferred to the credit of the regular account of the district in the district depository.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.180. MANNER OF REPAYMENT. (a) The board may provide for the payment of the principal of and interest on the bonds by one or more of the following methods:

(1) imposition and collection of ad valorem taxes;

(2) adoption of a plan of taxation authorized by Sections 51.502-51.506, Water Code, as provided by those sections; or

(3) pledging all or part of the fees under Section [441.197](#).

(b) In this chapter, a reference to ad valorem taxes includes a reference to any other tax the board imposes as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER J. TAXES

Sec. 441.191. IMPOSITION OF TAXES. The board may annually impose taxes to pay the principal of and interest on district bonds and the expense of assessing and collecting taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.192. MAINTENANCE TAX. (a) A district may impose a maintenance tax to pay the district's operating expenses if, at an election in the district ordered for that purpose, a majority of the votes received favor the imposition of the tax.

(b) The amount of the tax may not exceed 25 cents on each \$100 of assessed valuation of property in the district.

(c) The election shall be held as provided for a confirmation and directors' election under Sections 441.030-441.035.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.193. TAX RATE. In setting a tax rate, the board shall consider the district's income from sources other than taxation. On determination of the amount of tax needed to be imposed, the board shall adopt a tax rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.194. APPOINTMENT OF TAX ASSESSOR-COLLECTOR. The board may appoint a tax assessor-collector.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.195. IMPOSITION OF TAXES DURING FIRST YEAR. The board may impose taxes for the entire year in which the district is created.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.196. ALL PROPERTY TAXED. The board shall impose taxes on all property in the district subject to taxation. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.197. FEES. (a) A district may adopt and enforce fees in addition to taxes to provide the district revenue to operate the district and secure district bonds.

(b) A district may file a suit to recover an unpaid fee under this section. The suit must be filed in a county in which the district is located.

(c) Except as provided by Section 365.040, a fee may not be imposed on or collected for travel on a road constructed, acquired, or improved by the district.

(d) A road facility may not be encumbered by a district fee. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.198. BOND ANTICIPATION NOTES. (a) A district may issue bond anticipation notes:

(1) for any purpose for which district bonds have been previously voted; or

(2) to refund previously issued bond anticipation notes.

(b) A district may contract with purchasers of bond anticipation notes that the proceeds from the sale of bonds that are issued to refund the bond anticipation notes shall be used only to pay the principal of or interest or redemption price on the bond anticipation notes.

(c) A district may secure the repayment of the principal of and interest and redemption premium on the bond anticipation notes from any source available for that repayment, including a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase bond anticipation notes, purchase or sale agreement, or another agreement authorized and approved by the district in connection with the authorization, issuance, security, or repayment of bond anticipation notes.

SUBCHAPTER K. ANNEXATION

Sec. 441.211. PETITION FOR ANNEXATION. (a) Any property owner may file with the board a petition requesting that the real property be annexed to the district. The property is not required to be contiguous to the district.

(b) The petition must:

(1) describe the property by metes and bounds, or if there is a recorded plat of the property, by lot and block number; and

(2) be executed as provided by law for the conveyance of real property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.212. BOARD DECISION. The board shall hear and consider the petition and may annex the real property to the district if the board considers the annexation to be to the district's advantage.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.213. COMMISSION APPROVAL. A board order annexing real property to the district is final only on written consent of the commission after the commission consults with the governmental entity to which the completed road facility will be conveyed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.214. RECORDING PETITION. The board shall record a petition that is granted in the office of the county clerk of each county in which annexed real property is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.215. ASSUMPTION OF DEBT SHARE. The board may require each petitioner to:

(1) assume the petitioner's share of any outstanding district bonds or voted but unissued bonds; and

(2) authorize the board to impose a tax on the petitioner's property in each year that any of those bonds are outstanding.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.216. UNISSUED BONDS. The board may issue bonds that have been voted but not issued at the time of an annexation, regardless of the alteration of the district boundaries after the bond's authorization, if each petitioner assumes the debt and authorizes the tax under Section 441.215.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER L. DISSOLUTION

Sec. 441.231. PETITION FOR DISSOLUTION. (a) A district shall submit to the commission a petition for dissolution of the district after:

(1) the district has completed each construction, acquisition, and improvement of a road facility provided in the plan approved by the commission;

(2) the district has conveyed each road facility to a governmental entity; and

(3) all bonds and other district indebtedness are paid in full.

(b) The district shall submit with the petition evidence that the commission by rule or order requires to show that each proposal in the plan has been completed and all bonds and other district indebtedness have been paid in full.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.232. COMMISSION DISSOLUTION ORDER. (a) The commission shall order the district dissolved if, after considering the petition and the accompanying evidence, the commission finds that:

(1) the work is completed according to the plan;

(2) each road facility has been conveyed; and

(3) all bonds and other indebtedness have been paid in

full.

(b) If the commission finds that one or more of these conditions has not been met, the commission shall adopt an order that will ensure that that condition is met. On compliance with this order, the commission shall order the district dissolved.

(c) On issuance of the commission's dissolution order, the dissolved district ceases as a governmental entity, and the board continues in existence only to transfer district money and dispose of district assets.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.233. TRANSFER OF DISTRICT MONEY. (a) On dissolution of the district, the board shall transfer the district's money to the governmental entity to which the road facility was conveyed. If road facilities were conveyed to more than one governmental entity, the board shall distribute the money among those governmental entities in proportion to the proceeds of all indebtedness that the district incurred to construct, purchase, or improve the road facilities conveyed to each respective governmental entity.

(b) A governmental entity shall use the money to maintain the road facility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.