

WATER CODE

TITLE 4. GENERAL LAW DISTRICTS

CHAPTER 56. DRAINAGE DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 56.001. DEFINITIONS. In this chapter:

(a) "District" means any drainage district organized under this chapter.

(b) "Board" means the governing body of a drainage district.

(c) "Commissioners court" means the commissioners court of the county in which the district is organized.

Acts 1971, 62nd Leg., p. 497, ch. 58, Sec. 1, eff. Aug. 30, 1971.

SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION TO ARTICLE XVI,
SECTION 59, DISTRICT

Sec. 56.011. CREATION OF DISTRICT. A drainage district may be created in the manner prescribed by this subchapter, either under and subject to the limitations of Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution.

Acts 1971, 62nd Leg., p. 498, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.012. NAME OF EACH DISTRICT. The name of each district shall include the name of the county in which it is located and each district shall be numbered in consecutive order.

Acts 1971, 62nd Leg., p. 498, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.013. AREA INCLUDED IN A DISTRICT. A district may include all or part of any village, town, or municipal corporation, but land included in one district may not be included in any other drainage district.

Acts 1971, 62nd Leg., p. 498, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.014. PETITION. (a) Any person may present a

petition to the commissioners court requesting the creation of a district. The petition shall be signed by at least 25 of the resident freehold taxpayers of the proposed district, or by at least one-third of the resident freehold taxpayers of the district if there are less than 75 of them, whose land might be affected by creation of the district.

(b) The petition shall state:

(1) the necessity, public utility, and feasibility of the proposed district;

(2) the proposed boundaries of the district; and

(3) the proposed name for the district.

Acts 1971, 62nd Leg., p. 498, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.015. DEPOSIT. (a) Any person filing a petition shall deposit with the clerk of the commissioners court cash, in an amount to be determined by the county election officer, which shall be held by the clerk until the result of the election to create the district and issue bonds is officially announced.

(b) If the result of the election favors creating the district, the clerk shall return the deposit to the petitioners or their agent or attorney, but if the result of the election is against the creation of the district, the clerk shall pay the cost and expenses of the election from the deposit with vouchers signed by the county judge and return the balance of the deposit to the petitioners or their agent or attorney.

Acts 1971, 62nd Leg., p. 498, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 2001, 77th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2001.

Sec. 56.016. TIME OF HEARING. At the same meeting at which the petition is presented, the commissioners court shall schedule a hearing on the petition at a regular or special meeting of the commissioners court. The hearing must be held during the period beginning on the 30th day and ending with the 60th day after the day the petition is presented.

Acts 1971, 62nd Leg., p. 498, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.017. NOTICE. (a) The commissioners court shall order the clerk to give notice of the time and place of the hearing on the petition by posting a copy of the petition and order of the commissioners court during the 20-day period immediately preceding the day of the hearing in five public places in the county. The clerk shall post one of the copies at the courthouse door and the four other copies within the boundaries of the proposed district.

(b) The clerk is entitled to receive five cents a mile for each mile necessarily traveled in posting the notices.

Acts 1971, 62nd Leg., p. 499, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.018. HEARING ON THE PETITION. At the hearing on the petition, any person whose land would be affected by creating the district may appear before the commissioners court and may contest the creation of the district or contend for its creation. The person may offer testimony to show that the district is or is not necessary and would or would not be a public utility and that creating the district would or would not be feasible or practicable.

Acts 1971, 62nd Leg., p. 499, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.019. FINDINGS. (a) At the hearing on the petition, if it appears to the commissioners court that drainage of the proposed district is feasible and practicable and is needed and would be conducive to public health or would be a public benefit or a public utility, the commissioners court shall make findings to this effect.

(b) If the commissioners court finds any of the issues in Subsection (a) of this section in the negative, it shall dismiss the petition at the cost of the petitioners.

(c) The findings of the commissioners court shall be recorded.

Acts 1971, 62nd Leg., p. 499, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.020. ENGINEER. (a) If the findings of the commissioners court under Section 56.019 of this code favor creating the district, the commissioners court shall appoint a

competent civil engineer, who shall be entitled to as many assistants as necessary.

(b) The engineer and his assistants are entitled to the compensation and allowances for transportation, supplies, and other expenses agreed on by the engineer and the commissioners court.

Acts 1971, 62nd Leg., p. 499, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.021. ENGINEER'S BOND. The engineer shall execute a bond for \$500 with two or more sureties approved by the commissioners court, payable to the county judge for the use and benefit of the district, conditioned on the faithful performance of his duties under this chapter.

Acts 1971, 62nd Leg., p. 499, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.022. SURVEY AND PRELIMINARY PLANS. (a) Within the time prescribed by the commissioners court, the engineer shall make a careful survey of the land proposed to be drained and protected by levees. For the purposes of the survey, the engineer may go on land located inside or outside the district, including land located in a different county.

(b) The engineer shall obtain information regarding land and outlets inside the proposed district from the Texas Natural Resource Conservation Commission and from other sources, and he shall cooperate with the Texas Natural Resource Conservation Commission in the discharge of its duties.

(c) The engineer shall use the survey to make preliminary plans:

- (1) locating approximately the necessary canals, drains, ditches, laterals, and levees;
- (2) designating the streams and bayous necessary to be cleaned, deepened, and straightened;
- (3) estimating the cost in detail of each contemplated improvement; and
- (4) estimating the probable annual cost of maintaining the improvements.

(d) The engineer shall ascertain and procure proper and

necessary outlets for the proposed canals, drains, and ditches necessary to drain the district.

(e) The engineer shall immediately make a report of his work to the commissioners court.

Acts 1971, 62nd Leg., p. 499, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 982, ch. 367, Sec. 29, eff. June 10, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.146, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 11.331, eff. Sept. 1, 1995.

Sec. 56.023. MAP. (a) The engineer shall include with his report a map showing:

(1) the beginning point and outlets of canals, drains, ditches, and laterals;

(2) the length, width, depth, and slopes of the banks of any cut or excavation and the estimated number of cubic yards of earth necessary to be removed from each; and

(3) the location and size of levees and the estimated number of cubic yards of earth necessary to construct them.

(b) The engineer will comply sufficiently with Subsection (a) of this section if he describes the boundaries and provides the other information required by that subsection on a copy of the official land office map of the county in which the proposed district is located.

Acts 1971, 62nd Leg., p. 500, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.024. HEARING ON PRELIMINARY REPORT. (a) At the first regular or special meeting of the commissioners court after the engineer files his preliminary report with the clerk, the commissioners court shall schedule the report for hearing at a regular or special meeting, which must be held during the period beginning on the 20th day and ending with the 30th day after the day the commissioners court schedules the hearing.

(b) The clerk shall post notice of the hearing on the preliminary report in the manner provided in Section [56.017](#) of this code.

(c) At the hearing, any resident or nonresident freehold

taxpayer whose land may be affected by the improvements, may appear and object to any of the improvements because they are not located at the proper places or they are not sufficient in number or capacity to properly drain the territory.

Acts 1971, 62nd Leg., p. 500, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.025. CHANGING THE PRELIMINARY REPORT. (a) The commissioners court may change the location of any improvement shown in the preliminary report or may add to or reduce the number of improvements. The commissioners court may order the engineer to locate any additional canals, drains, ditches, or levees for the purpose of conducting water from the land of the district or to prevent overflow of water from streams or other bodies of water onto the land of the district to be drained.

(b) The commissioners court may refer the entire preliminary report to the engineer for compliance with its orders and may require the engineer to submit a further report.

(c) If material changes or alterations are made in the preliminary report, the clerk shall give notice, and the commissioners court shall hold a hearing in the manner provided for the original preliminary report.

Acts 1971, 62nd Leg., p. 500, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.026. ADOPTING THE PRELIMINARY REPORT. If there are no objections to the preliminary report or if the commissioners court finds that objections to the report are not valid, the report shall be approved and the approval entered in the minutes.

Acts 1971, 62nd Leg., p. 501, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.032. AUTHORIZING EXISTING DISTRICTS TO OPERATE UNDER ARTICLE XVI, SECTION 59, OF THE TEXAS CONSTITUTION. (a) Any existing district may be authorized to operate under the provisions of Article XVI, Section 59, of the Texas Constitution without change of name or impairment of obligations.

(b) To operate under Article XVI, Section 59, of the Texas Constitution, the board must adopt a resolution proposing the change and schedule a hearing on the resolution. The hearing must

be held not earlier than the 30th day but not later than the 60th day after the date the resolution is adopted. The board shall give notice of the time and place of the hearing on the resolution by posting a copy of the resolution for at least the 20 days preceding the date of the hearing in five public places in the county. One of the copies shall be posted on the courthouse door and the other copies shall be posted within the boundaries of the district. Following the hearing, the board may adopt a resolution authorizing the district to operate under the provisions of Article XVI, Section 59, of the Texas Constitution.

(c) Any district operating under the provisions of this section is governed and controlled by the laws under which it was organized.

(d) Limitations imposed by Article III, Section 52, of the Texas Constitution and this chapter on debts to be incurred and taxes to be levied are not applicable to districts operating under Article XVI, Section 59, of the Texas Constitution.

Acts 1971, 62nd Leg., p. 502, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 2, eff. Sept. 1, 2001.

Sec. 56.033. ALTERNATE PROCEDURE FOR CREATION. (a) The landowners of a defined area of territory not included in a district may file with the commissioners court a petition requesting an election on the creation of a district. The petition must:

(1) be signed by registered voters residing in the territory equal in number to at least five percent of the number of votes received in the territory to be included by all candidates in the most recent gubernatorial general election; and

(2) describe by metes and bounds the territory to be included in the district.

(b) The commissioners court shall call and hold a hearing to determine if the petition meets the requirements of Subsection (a).

(c) If the commissioners court determines the petition meets the requirements of Subsection (a), the court shall order an election held in the proposed district to determine whether or not the district should be created and whether or not the district

should issue bonds and levy taxes to pay for the bonds.

(d) The provisions of this subchapter, other than Section [56.019](#), govern the hearing and election.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 1, eff. June 16, 1995.

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 56.061. CREATION OF BOARD. (a) A district is governed by a board of three directors unless special law provides otherwise.

(b) When a district is established, the commissioners court shall appoint three directors for the district to serve until permanent directors are elected.

Acts 1971, 62nd Leg., p. 502, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 1999, 76th Leg., ch. 222, Sec. 1, eff. Sept. 1, 1999.

Sec. 56.062. ELIGIBILITY REQUIREMENTS FOR DIRECTORS. To be eligible to serve as a director, a person must satisfy the requirements of Section [141.001\(a\)](#), Election Code.

Added by Acts 2001, 77th Leg., ch. 298, Sec. 3, eff. Sept. 1, 2001.

Sec. 56.064. ELECTION OF DIRECTORS. (a) For any district in which special law requires that directors be appointed, except when the special law otherwise provides, on petition of a majority of the real property taxpayers of a district requesting an election of district directors, the commissioners court shall immediately order an election to be held at the earliest legal time. The election shall be held as other elections under Chapter [49](#).

(b) The first elected directors of the districts in Calhoun, Matagorda, and Victoria Counties hold office until May 15 of the next succeeding odd-numbered year. Subsequent directors of the district are elected every two years on the first Saturday in May in each odd-numbered year, for a term of two years beginning on May 15 following the election.

Acts 1971, 62nd Leg., p. 503, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 1975, 64th Leg., p. 1847, ch. 575, Sec. 1, 2, eff.

Sept. 1, 1975; Acts 1983, 68th Leg., p. 5216, ch. 951, Sec. 10, eff. Jan. 1, 1984; Acts 1987, 70th Leg., ch. 54, Sec. 25(o), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 59, Sec. 1, eff. May 5, 1989; Acts 1995, 74th Leg., ch. 715, Sec. 27, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 222, Sec. 2, eff. Sept. 1, 1999.

Sec. 56.0641. ELECTION PROCEDURES. (a) In those districts referred to in Subsection (b) of Section 56.064, until otherwise ordered by the board of directors, the three persons receiving the highest number of votes at each election are elected. By order made before the 60th day preceding an election for directors, the board of directors in those districts referred to in Subsection (b) of Section 56.064 may order that the election of directors for that district shall be by position or place, designated as Place No. 1, Place No. 2, and Place No. 3. The order shall designate the place numbers in relation to the directors then in office, and these place designations shall be observed in all future elections. The person receiving the highest number of votes for each position or place is elected. Once the board of directors has adopted the place system for election, neither that board nor their successors may rescind the action.

(b) A person wishing to have his name printed on the ballot as a candidate for director in those districts referred to in Subsection (b) of Section 56.064 shall file a signed application with the secretary of the board of directors not later than 5 p.m. of the 31st day preceding the election.

(c) The board of directors in those districts referred to in Subsection (b) of Section 56.064 shall order the election, appoint the election judges, canvass the returns, and declare the results of the election. In other respects, the procedures for conducting the election and for voting are as specified in the Texas Election Code. The expenses of holding the election shall be paid out of the construction and maintenance fund of the district.

Added by Acts 1975, 64th Leg., p. 1847, ch. 575, Sec. 3, eff. Sept. 1, 1975. Amended by Acts 1999, 76th Leg., ch. 222, Sec. 3, eff. Sept. 1, 1999.

Sec. 56.0642. APPLICABILITY TO SPECIAL LAW DISTRICTS. Subsection (b) of Section 56.064 and Section 56.0641 of this code apply to drainage districts created or governed by special law where the special law expressly adopts the provisions of Section 56.064 of this code or its predecessor statute (Article 8119, Revised Civil Statutes of Texas, 1925) or repeats its provisions, without change in substance, as those provisions existed at the time the special law was enacted; but they do not apply to any district established, reestablished, or otherwise affected by special law where the special law contains specific provisions relating to the method of selecting the governing body of the district which were at variance with the provisions of Section 56.064 of this code or its predecessor at the time the special law was enacted.

Added by Acts 1975, 64th Leg., p. 1848, ch. 575, Sec. 4, eff. Sept. 1, 1975. Amended by Acts 1999, 76th Leg., ch. 222, Sec. 4, eff. Sept. 1, 1999.

Sec. 56.069. TRANSFER OF BOARD'S POWER TO COMMISSIONERS COURT. (a) The functions, powers, rights, and duties exercised by or relating to the board of any district may be transferred to the commissioners court of the county in which the district is wholly located, but before the transfer is made, the commissioners court and the board must pass resolutions authorizing the transfer. In any district in which the board is elected, the transfer may not be made unless the transfer is approved by a majority of the voters voting on that issue at an election held in the district.

(b) After the transfer is made, the commissioners court shall be the sole governing body of the district and shall exercise the functions, powers, rights, and duties transferred.

(c) The members of the commissioners court are not entitled to receive any compensation for the exercise of these functions, powers, rights, and duties.

(d) On the passage of a resolution at a meeting of the board of the district, the commissioners court may be authorized to receive an allowance of not more than \$150 a month for travel expense incurred by the commissioners incident to the discharge of

their duties as members of the board of the district.

Acts 1971, 62nd Leg., p. 504, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 1973, 63rd Leg., p. 1780, ch. 653, Sec. 4, eff. June

16, 1973; Acts 2001, 77th Leg., ch. 298, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.082. HEARING; POWERS OF THE COMMISSIONERS COURT.

(a) Except as otherwise provided in this chapter, the commissioners court has exclusive jurisdiction to hear and determine:

(1) contests and objections to creating a district;

(2) matters relating to creating a district; and

(3) all proceedings of a district during its organization.

(b) The commissioners court may adjourn a hearing from day to day, and the judgment of the commissioners court rendered under Subsection (a) of this section is final.

Acts 1971, 62nd Leg., p. 506, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 1999, 76th Leg., ch. 222, Sec. 5, eff. Sept. 1, 1999.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 56.111. CONTROL AND REPAIR OF DISTRICT IMPROVEMENTS.

The board may control and supervise the construction and maintenance of canals, drains, ditches and levees, and other improvements of the district and shall keep them in repair.

Acts 1971, 62nd Leg., p. 506, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.115. DUTIES OF THE ENGINEER. (a) The engineer

shall make a map of the district showing:

(1) the boundary lines of the district;

(2) the original surveys within the boundaries of the district; and

(3) the number of acres in an original survey which are included in the district if the boundary lines of the district cross the original survey.

(b) The engineer shall make maps and profiles of the canals,

drains, ditches, and levees located in the district and their outlets extending beyond the boundaries of the district.

(c) A copy of the land office map of the county which shows the name and number of each survey and the area or number of acres within the district is sufficient to comply with the requirement for a map of the district, and any recognized map of a city or town in the district is sufficient to comply with the requirement for a map of that city or town.

Acts 1971, 62nd Leg., p. 507, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.116. MAPS AND ESTIMATES. (a) The map and profile shall include the relation that each canal, drain, ditch, or levee bears to each tract of land through which it passes and the shape into which the canal, drain, ditch, or levee divides each tract.

(b) If any canal, drain, ditch, or levee cuts off any tract containing less than 20 acres of land, the map shall show:

- (1) the number of acres divided from the tract;
- (2) the number of acres in the whole tract;
- (3) the shape of the small tract; and
- (4) the relation of the small tract to the canal, ditch, drain, or levee.

(c) The profile may show the number of cubic yards necessary to be excavated to make each canal, drain, or ditch and to build any levee located in the district and may give the estimated cost of each.

(d) When the map, profile, and estimates are completed, the engineer shall sign them in his official capacity and file them with the clerk of the commissioners court.

Acts 1971, 62nd Leg., p. 507, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.120. RAILROAD CULVERTS. (a) At the expense of the district, the board may construct necessary bridges and culverts across or under a track or right-of-way of a railroad to enable the district to construct and maintain a necessary canal, drain, or ditch.

(b) Before the board constructs a bridge or culvert, the board shall give notice to the railroad authorities authorized to

build or construct bridges and culverts and shall allow the railroad 30 days to build the bridge or culvert at its own expense and according to its own plans.

(c) Bridges or culverts shall be constructed so they will not interfere with the free and unobstructed flow of water passing through the canals and drains and shall be placed at points designated by the engineer.

Acts 1971, 62nd Leg., p. 508, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.121. ROAD CULVERTS. The board shall build necessary bridges and culverts across or over canals, drains, ditches, laterals, and levees which cross a county or public road and shall pay for the construction with funds of the district.

Acts 1971, 62nd Leg., p. 508, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.122. CONSTRUCTING BRIDGES AND CULVERTS IN CERTAIN COUNTIES. (a) If it is necessary to build a bridge or culvert across or over a state highway located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, the board may construct or assist in constructing the bridge or culvert.

(b) After the bridge or culvert is constructed, the board may pay or may join with any county or other governmental agency or subdivision to pay the expenses of making necessary and needed repairs. The expenses shall be paid from the funds of the district.

Acts 1971, 62nd Leg., p. 508, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.123. CHANGE IN PLANS WITHOUT ADDITIONAL EXPENDITURES. (a) After the board authorizes bonds to be issued, the board may make changes in the district or its improvements which will be an advantage to the district but which will not increase the cost of the proposed work beyond the amount of bonds authorized.

(b) The board may make the changes by entering on their minutes a notation of the changes, with the district maps and profiles showing the changes. Notice of the changes shall be given by publishing the notation with the book and page number of the minutes for two consecutive weeks in a newspaper of general

circulation published in the English language in the county in which the district is located.

Acts 1971, 62nd Leg., p. 509, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1999, 76th Leg., ch. 222, Sec. 6, eff. Sept. 1, 1999.

Sec. 56.124. CHANGE IN PLANS WITH ADDITIONAL EXPENDITURES.

(a) If the board decides that changes or additions in the preliminary survey would be of advantage to the district but would necessitate issuing additional bonds of the district, it shall certify the need for additional bond authorization and file the certification with maps and profiles prepared by the district engineer showing the changes and their estimated cost in the district office.

(b) At the first regular meeting after the documents are filed, the board shall give notice of an election to determine whether or not the changes and improvements should be made and shall order the election held within the time and the returns made as provided in the original election.

(c) If two-thirds of the electors of the district vote in favor of the proposition, the board shall enter the approval in the records and shall order the bonds issued as in the manner provided for issuance of the original bonds.

Acts 1971, 62nd Leg., p. 509, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1999, 76th Leg., ch. 222, Sec. 7, eff. Sept. 1, 1999.

Sec. 56.125. ADDITIONAL IMPROVEMENTS. (a) After completion of improvements, including bridges and culverts, and after payment of all expenses, if surplus money or bonds remain to the credit of the district, the board may order the engineer to make a detailed report of additional or supplemental drains, ditches, levees, or other surface drainage improvements, including tile drainage, which are needed by the district. The engineer shall make the report and the board shall act on the report in the manner provided in this chapter for the initial report of the engineer.

(b) After the engineer's report is approved or modified by

the board, the board shall order an election to be held in the district at the earliest legal time. The only proposition that may be submitted at the election is whether or not the district will construct additional improvements and pay for them with funds currently available. A majority of those persons voting at the election must approve the proposition for it to carry.

(c) Notice of the election shall be given, election officials appointed, returns made and canvassed, and the result declared as provided in Sections 56.027-56.031 of this code. The notice of election shall state:

(1) the character and scope of the proposed improvements;

(2) the estimated cost of the proposed improvements;
and

(3) the time and place for holding the election.

(d) The provisions of this chapter relating to awarding contracts, constructing improvements, and the authority of the board and the commissioners court to award contracts and construct improvements apply as far as applicable to constructing and paying for additional improvements.

(e) The estimated cost of the additional improvements may not be more than the amount of surplus money or bonds to the credit of the district.

Acts 1971, 62nd Leg., p. 509, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1999, 76th Leg., ch. 222, Sec. 8, eff. Sept. 1, 1999.

Sec. 56.126. CHANGES, ADDITIONS, AND IMPROVEMENTS. When the board determines that a necessity exists, it may make changes in, additions to, and improvements in the drainage system of the district and shall pay for the changes, additions, and improvements with funds collected under the provisions of Section 56.242 of this code.

Acts 1971, 62nd Leg., p. 510, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.128. INJURING DRAINAGE CANAL OR DITCH. Any person who wilfully fills up, cuts, injures, destroys, or impairs the

usefulness of any canal, drain, ditch, watercourse, or other work constructed, repaired, or improved by a district to drain and protect from overflow of water, upon conviction is punishable by confinement in the county jail for not more than two months or by a fine of not more than \$1,000.

Acts 1971, 62nd Leg., p. 510, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 5, eff. Sept. 1, 2001.

Sec. 56.135. INTEREST IN DRAINAGE CONTRACT. A county judge, county commissioner, director of the board, or drainage engineer who becomes interested in any contract for construction of any work by the district or in any fee paid by the district from which he will receive money, consideration, or other thing of value, upon conviction is punishable by confinement in the county jail for not less than six months nor more than one year.

Acts 1971, 62nd Leg., p. 512, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1999, 76th Leg., ch. 222, Sec. 9, eff. Sept. 1, 1999.

Sec. 56.140. PUBLIC AND PRIVATE IMPROVEMENTS. (a) Canals, drains, ditches, and levees which are constructed by a district and watercourses which are cleaned or constructed by a district are the public property of the district.

(b) A person who owns land in the district may drain into one or more of the public drains, and at his own expense, the landowner may make drains according to the natural slope of the land through other lands intervening between his land and the nearest public drain or watercourse or along any public highway.

(c) Before constructing any drains, the landowner shall notify the board of his intention to construct a drain through another person's land or along a public highway, and the directors shall go on the premises and acting as a jury of view shall determine the place for constructing the drain.

Acts 1971, 62nd Leg., p. 513, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.141. OUTSIDE DRAINS. (a) Before a person

artificially drains adjacent land located outside the district into the canals, drains, or ditches of the district, the person must submit a written application to the board, and the board must grant permission to make the connections. The application shall include the width, depth, and length of the connecting drains and ditches.

(b) When the application is filed with the board, the engineer shall estimate the quantity of water which the connecting drains or ditches would probably empty into the established canals or drains and shall indicate whether or not the established canals or drains have sufficient capacity to carry the excess water without risk or damage to the canals, drains, or adjacent territory. The engineer shall report to the board the result of his examination and his estimate.

(c) Unless an agreement is reached with the applicants, the board may authorize the connection on condition that the applicant first pay to the construction and maintenance fund an amount of money which bears the same ratio to the cost of the original canal or drain from the point of connection to its outlet as the water to be emptied into the canal or drain by the connecting drains bears to the water then flowing into and being carried by the original canal or drain as estimated by the engineer.

Acts 1971, 62nd Leg., p. 513, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1999, 76th Leg., ch. 222, Sec. 10, eff. Sept. 1, 1999.

Sec. 56.142. ENLARGEMENT OF CANALS, DRAINS, AND OTHER OUTLETS. (a) If the engineer's report indicates that the capacity of the canals, drains, or outlets of the district are insufficient to carry the excess water that would be discharged into them by connecting drains or that the additional discharge of water will endanger the canals and drains or the lands and property adjacent to them, the board may give the applicant permission to construct connecting drains and secure the desired outlet on condition that the applicant make necessary enlargements of the canals and drains of the district at the applicant's own expense. The increased capacity of the canals of the district shall be sufficient to carry any increase of water caused by the connection without danger to

canals and drains or lands adjacent to them.

(b) The engineer shall supervise and direct the enlargement of the canals and drains, and after the work is completed to his satisfaction, the engineer shall report to the board under his official certificate. The report shall show:

- (1) the kind of work done;
- (2) the extent of the work;
- (3) the new capacity to be sufficient to carry excess water from the connecting drain;
- (4) the number of days spent by the engineer supervising the work; and
- (5) the amount due to the engineer for his services.

(c) On approving the engineer's report, the board shall issue an order authorizing the connections to be made with the canals and drains on payment of the amount due to the engineer as shown by the engineer's report and shall order the applicant to pay the engineer's salary.

Acts 1971, 62nd Leg., p. 514, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1999, 76th Leg., ch. 222, Sec. 11, eff. Sept. 1, 1999.

Sec. 56.143. CONTRACT FOR IMPROVEMENTS WITH THE UNITED STATES. (a) Any district which is converted under Section 56.032 of this code and which lies wholly within one county may enter into contracts with the United States, including the Bureau of Reclamation of the Department of Interior, to construct improvements.

(b) The board must approve the project, plans and specifications, and methods of constructing or reconstructing the improvements.

(c) After approval, the board may execute a contract for a specified number of years or until the plans or programs of the district are completed and shall pay the obligations incurred under the contract by issuing bonds that are approved by the voters in the manner provided for issuing other bonds of the district. The board shall deliver the bonds to the United States.

Acts 1971, 62nd Leg., p. 514, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.144. INTERLOCAL AGREEMENTS. A district created pursuant to this chapter, special law or other general law may enter into an interlocal agreement with another political subdivision to accomplish the purposes set forth in Article III, Sections 52(b)(1), (2), and (3), of the Texas Constitution. In the event the jurisdictional boundaries of two or more districts or political subdivisions contain all or part of the same watershed of a waterway and one or more of the other districts or political subdivisions determines that the construction of improvements in the watershed would be a public benefit and accomplish the purposes set forth in Article III, Sections 52(b)(1), (2), and (3), of the Texas Constitution, the district or political subdivision shall propose an interlocal agreement to the governing bodies of the other districts or political subdivisions sharing jurisdiction within the watershed. If an interlocal agreement is not executed within 120 days from the date it is submitted to all of the districts and political subdivisions sharing jurisdiction within the watershed, the district or political subdivision proposing the improvements may petition the commission for approval of the proposed improvements. The commission shall conduct a hearing on the proposed improvements and upon a finding that the improvements would be a public benefit, shall approve the plan for the improvements, and the district or political subdivision proposing the improvements shall be authorized to implement the plan within the boundaries of the other district or political subdivision.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 3, eff. June 16, 1995.

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Sec. 56.182. DISTRICT FUNDS. (a) The construction and maintenance fund consists of money, effects, property, and proceeds received by the district from any source except that portion of tax collections necessary to pay principal and interest on bonded indebtedness.

(b) The interest and sinking fund consists of that portion of tax collections necessary for paying principal and interest on

bonded indebtedness, and this fund may be invested for the benefit of the district as provided by law.

(c) Each fund shall be held for the purpose for which it was created, and if money is improperly paid from either fund, the board may transfer money in the two funds to restore the fund which was improperly used.

Acts 1971, 62nd Leg., p. 515, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 2001, 77th Leg., ch. 298, Sec. 6, eff. Sept. 1, 2001.

SUBCHAPTER F. ISSUANCE OF BONDS AND NOTES

Sec. 56.201. AUTHORITY TO ISSUE BONDS. Any district may issue bonds as provided in this chapter to pay for drainage improvements.

Acts 1971, 62nd Leg., p. 515, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.202. ISSUANCE OF BONDS. When maps, profiles, and estimates are filed, the board shall issue an order directing the issuance of bonds sufficient to pay for proposed improvements together with necessary, actual, and incidental expenses. The bonds may not be issued in an amount greater than the amount specified in the order and notice of election, and in districts operating under Article III, Section 52, of the Texas Constitution, the bonds may not be issued in an amount greater than one-fourth of the assessed valuation of the real property of the district.

Acts 1971, 62nd Leg., p. 516, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 2001, 77th Leg., ch. 298, Sec. 7, eff. Sept. 1, 2001.

Sec. 56.203. RECORD BOOK FOR BONDS. (a) Before any bonds are issued, the board shall provide a well-bound book in which the board shall keep a record of:

- (1) all bonds which have been issued;
- (2) the numbers of the bonds;
- (3) the amount of the bonds;
- (4) the rate of interest on the bonds;

- (5) the date of issuance of the bonds;
- (6) the date on which the bonds are due;
- (7) the place where the bonds are payable;
- (8) the amount received for the bonds;
- (9) the annual rate of assessment to pay interest on and provide a sinking fund for the bonds; and
- (10) the payment of each bond.

(b) The board shall keep the book open at all times for public inspection by district taxpayers and bondholders.

Acts 1971, 62nd Leg., p. 516, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 2001, 77th Leg., ch. 298, Sec. 7, eff. Sept. 1, 2001.

Sec. 56.204. BONDS: REQUISITES. (a) Bonds shall be issued in the name of the district, signed by the board president, and attested by the board secretary, and each bond shall have the seal of the district affixed to it.

(b) The bonds shall be issued in denominations and shall bear interest as authorized by the board.

(c) The terms of the bonds shall include the time, places, manner, and conditions of payment and the rate of interest determined and ordered by the board.

(d) The bonds shall be paid not later than 40 years from the date they are issued.

Acts 1971, 62nd Leg., p. 516, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 2001, 77th Leg., ch. 298, Sec. 8, eff. Sept. 1, 2001.

Sec. 56.205. BONDS: APPROVAL. (a) After the bonds are sold, the district shall submit to the attorney general:

- (1) the actual bonds;
- (2) a certified copy of the board's order levying a tax to pay interest and create a sinking fund;

(3) a statement of the district's total bonded indebtedness including the value of the bonds proposed to be issued and the value of taxable property in the district as shown by the last official assessment of the appraisal district in which the

district participates; and

(4) other information the attorney general requires.

(b) The attorney general shall examine the bonds carefully and shall certify them if he finds that they conform to the constitution and laws of this state and are valid and binding obligations of the district.

Acts 1971, 62nd Leg., p. 516, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 2001, 77th Leg., ch. 298, Sec. 9, eff. Sept. 1, 2001.

Sec. 56.207. BONDS: SALE. (a) The board shall advertise and sell the bonds on the best terms and for the best price possible.

(b) The board shall deposit all money from the sale of the bonds as it is received into the construction and maintenance fund of the district.

Acts 1971, 62nd Leg., p. 517, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 2001, 77th Leg., ch. 298, Sec. 10, eff. Sept. 1, 2001.

Sec. 56.209. USE OF UNSOLD BONDS FOR MAINTENANCE PURPOSES. If any bonds remain unsold which are not required to complete improvements, the board may enter its consent on the public record to sell the bonds and place the proceeds in the construction and maintenance fund for use in accomplishing the purposes stated in Section [56.242](#) of this code.

Acts 1971, 62nd Leg., p. 517, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 2001, 77th Leg., ch. 298, Sec. 10, eff. Sept. 1, 2001.

Sec. 56.210. REFUNDING BONDS. (a) A district may refund outstanding bonds by issuing new bonds as provided by Chapter [1207](#), Government Code.

(b) The district shall issue the bonds in denominations to be determined by the board and shall levy a tax sufficient to meet the payment of principal and interest of the refunding bonds before the bonds are delivered.

Acts 1971, 62nd Leg., p. 518, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 2001, 77th Leg., ch. 298, Sec. 10, eff. Sept. 1,
2001.

Sec. 56.211. REFUNDING BOND ELECTION. (a) If indebtedness to be refunded includes obligations other than voted bonds, in any district operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, before the refunding bonds may be issued, a majority of the electors of the district voting at an election called for that purpose must vote in favor of issuing the refunding bonds and levying a tax to pay for the bonds.

(b) The board shall call the election and the secretary of the board shall give notice of the time and places for holding the election.

(c) The notice shall be signed by the secretary and shall

- (1) state the purpose of the election;
- (2) state the proposition to be voted on;
- (3) define the election precincts;
- (4) prescribe the polling places in the district; and
- (5) list the names of the election officers.

(d) The notice shall be published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the district is located, but if a newspaper is not published in the county, the notice shall be published in the nearest county. The first publication shall be at least 20 days before the day of the election.

Acts 1971, 62nd Leg., p. 518, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, Sec. 8, eff. May
31, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 11, eff.
Sept. 1, 2001.

Sec. 56.212. APPROVAL AND ISSUANCE OF REFUNDING BONDS. (a) If the board declares the result of the election under Section 56.211 of this code to favor the issuance of refunding bonds and the levy of a tax to pay for the bonds, refunding bonds with the seal of the district affixed to them may be issued in the name of the district. The bonds shall be signed by the board president and

attested and registered by the board secretary.

(b) The bonds together with the record relating to them shall be submitted to the attorney general for his approval, as required by Section 49.184.

(c) When the attorney general approves the bonds, they shall be delivered to the comptroller who shall register them and deliver them in exchange for or on release of the obligations being refunded at the time, in the manner, and in the amounts prescribed in the order of the board. If the obligations being refunded are evidenced by outstanding securities, the comptroller shall cancel the outstanding securities concurrently with the registration and delivery of the bonds.

(d) When the refunding bonds are approved by the attorney general and registered and delivered by the comptroller, the bonds are valid and binding obligations of the district and are incontestable for any cause.

Acts 1971, 62nd Leg., p. 519, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 12, eff. Sept. 1, 2001.

Sec. 56.213. TAX ANTICIPATION NOTES; BOND ANTICIPATION NOTES. (a) A district may borrow money by issuing negotiable tax anticipation notes or bond anticipation notes if the board finds that the district has an insufficient amount of money available to:

- (1) pay the principal of or interest on any district bond payable in whole or in part by taxes; or
- (2) meet any other need of the district.

(b) The district may issue tax anticipation notes or bond anticipation notes without giving notice or otherwise advertising the issuance of the notes.

(c) A tax anticipation note or bond anticipation note must mature not later than one year after the date the note is issued.

(d) The district may issue tax anticipation notes for any purpose for which the district is authorized to levy taxes. The notes must be secured with the proceeds of taxes to be levied by the district in the 12-month period following issuance of the note. The district may covenant with purchasers of the notes that the

district will levy a tax sufficient to pay the principal of and interest on the notes and to pay the costs of collecting the tax.

(e) The district may issue bond anticipation notes for any purpose for which bonds of the district have been approved by voters or to refund previously issued bond anticipation notes. A district may covenant with purchasers of the notes that the district will use the proceeds of the sale of any district bonds in the process of issuance to refund the notes. A district that covenants under this subsection shall use the bond proceeds to pay the principal, interest, or redemption price on the notes.

(f) A district required to seek commission approval of bonds must have an application for approval of a bond on file with the commission before issuing bond anticipation notes secured by the bond.

Added by Acts 1995, 74th Leg., ch. 1052, Sec. 2, eff. June 17, 1995.

SUBCHAPTER G. TAXATION PROVISIONS

Sec. 56.241. LEVY OF TAXES TO PAY FOR BONDS. After bonds are authorized at an election, the board shall have taxes annually assessed and collected on all property in the district sufficient to pay interest and principal on the bonds. Taxes collected under this section shall be placed in the interest and sinking fund.

Acts 1971, 62nd Leg., p. 519, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 2001, 77th Leg., ch. 298, Sec. 13, eff. Sept. 1, 2001.

Sec. 56.242. MAINTENANCE TAX. (a) The board shall have a tax assessed and collected on district property sufficient to maintain, repair, and preserve district improvements and to pay legal debts, demands, and obligations of the district, but in districts operating under Article III, Section 52, of the Texas Constitution, the tax may not be in an amount greater than one-half of one percent of the total assessed valuation of the district for that year.

(b) Taxes collected under this section shall be placed in the construction and maintenance fund.

(c) The board may issue negotiable notes payable from the maintenance tax authorized by Subsection (a) to meet the financial obligations of the district, as described by Subsection (a). The notes shall be payable over a period not to exceed five years from the date of issuance. Notes issued under this subsection are not required to be approved by the Texas Natural Resource Conservation Commission. A district may not have outstanding, at any one time, notes in excess of \$3 million under this subsection.

(d) The board may issue negotiable notes to pay any lawful expenditure of the district, other than principal and interest on debt, including all costs to improve or repair any existing drainage canal, ditch, watercourse, or other work constructed, repaired, or improved by the district. The notes may be payable from and secured by a lien on and pledge of any available funds of the district, including the proceeds of a maintenance tax. Notes issued under this subsection shall be payable over a period not to exceed 20 years from the date of issuance and if issued for a term longer than one year must be treated as "debt" as defined by Section [26.012](#), Tax Code. The maximum debt service on all notes issued under this subsection may not exceed in any fiscal year of a district an amount that could be paid from the proceeds of one-fourth of the maximum tax the district is authorized by law to levy on the date any notes are issued.

Acts 1971, 62nd Leg., p. 519, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 14, eff. Sept. 1, 2001.

Sec. 56.247. LEVYING TAXES ON THE BENEFIT BASIS. A district operating under Article XVI, Section [59](#), of the Texas Constitution, may levy taxes on the benefit basis, which means the levy of a tax on an equal or uniform basis or rate on each acre of land in the district.

Acts 1971, 62nd Leg., p. 520, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.248. AUTHORIZING TAXATION ON THE BENEFIT BASIS FOR NEWLY CREATED DISTRICTS. (a) In a petition to create a district under Article XVI, Section [59](#), of the Texas Constitution, the

petitioner may request that taxes in the proposed district be levied on the benefit basis, and the notice of hearing on the petition shall state this request in addition to other information required by V.T.C.A., Water Code Sec. 56.017.

(b) At the hearing on the petition, the commissioners court shall consider whether or not it will be fair and equitable to levy taxes on the benefit basis, and any person who would be affected by creation of the district may appear before the commissioners court and support or oppose the levy of taxes on the benefit basis.

(c) If the commissioners court finds that creation of and drainage of the district is feasible and practicable under V.T.C.A., Water Code Sec. 56.019, the commissioners court shall further determine whether or not the levy of taxes on the benefit basis would be fair and equitable to the landowners in the district.

(d) If the commissioners court determines that levying taxes on a benefit basis would not be fair and equitable to the landowners, the order of the commissioners court shall state these findings, and if the district is created, district taxes shall be levied on an ad valorem basis.

(e) If the commissioners court favors creation of the district and determines that levying taxes on a benefit basis will be fair and equitable to the landowners, the order of the commissioners court shall include these findings and an election shall be called to create the district and levy taxes on the benefit basis.

(f) Findings of the commissioners court relating to the basis on which taxes will be levied are final and conclusive on all parties.

Acts 1971, 62nd Leg., p. 521, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.249. AUTHORIZING TAXATION ON THE BENEFIT BASIS FOR EXISTING DISTRICT. (a) A district may levy taxes on the benefit basis as provided in this section.

(b) Any person may present to the board a petition, signed by 75 of the resident freehold taxpayers of the district whose land would be affected or by one-third of the freehold resident taxpayers of the district whose land would be affected if there are

less than 75 in the district, requesting that taxes of the district be levied on the benefit basis and showing that the levy of taxes on the benefit basis will be fair and equitable to all landowners in the district.

(c) At the same meeting at which the petition is presented, the board shall schedule a hearing on the petition for either a regular meeting or a special meeting called for that purpose to be held during the period beginning on the 30th day and ending with the 60th day after the day the petition is presented.

(d) The board shall give notice of the time and place of the hearing by posting a copy of the petition and the order of the board at five public places in the county during the 20-day period immediately preceding the day of the hearing. The board shall post one of the copies at the courthouse door and the other four copies at four places within the boundaries of the district.

(e) At the hearing, any person whose land would be affected may appear before the board and may support or oppose the levy of taxes on a benefit basis and may offer testimony to show whether or not the levy of taxes on the benefit basis will be fair and equitable to landowners in the district. The board has exclusive jurisdiction to hear and determine this issue and matters relating to it and has exclusive jurisdiction in all subsequent proceedings. The board may adjourn the hearing from day to day, and judgments of the board are final.

(f) If the board finds that levying taxes on the benefit basis will not be fair and equitable to landowners in the district, an order shall be entered dismissing the petition, and the district shall continue to levy taxes on an ad valorem basis, but if the board finds that levying taxes on the benefit basis will be fair and equitable to landowners in the district, the board shall order an election to be held in the district.

(g) An election to approve the levy of taxes on the benefit basis must be held on the earliest legal date that occurs on or after the 30th day after the date the board orders the election. Notice of the election shall be given in the same manner as notice is given for the hearing on the petition. The board shall name polling places within the district and shall appoint judges and

other necessary election officers. The ballots shall be printed to provide for voting for or against the following proposition: "The levy of taxes in the district on the benefit basis."

(h) At least two-thirds of those persons voting in the election must vote in favor of the proposition for it to carry.

(i) If the proposition carries at the election, the order of the board canvassing the election shall provide that taxes of the district are to be levied on the benefit basis, but if the proposition fails to carry at the election, the order of the board canvassing the election shall provide that taxes of the district are to continue to be levied on an ad valorem basis.

Acts 1971, 62nd Leg., p. 521, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 15, eff. Sept. 1, 2001.

Sec. 56.250. LAW GOVERNING DISTRICTS LEVYING TAXES ON THE BENEFIT BASIS. A district that levies taxes on the benefit basis is governed by the provisions of this chapter. However, the rate of taxation and the assessment and collection of taxes is governed by the law relating to ad valorem taxes to the extent applicable and not inconsistent with this chapter.

Acts 1971, 62nd Leg., p. 522, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, Sec. 4(r), eff. Jan. 1, 1982.

Sec. 56.251. DETERMINING ACREAGE IN THE DISTRICT. (a) In districts levying taxes on the benefit basis, the board shall appoint three freehold taxpaying voters in the district as a committee to determine the number of acres of land owned by each landowner in the district. A person appointed by the board shall qualify by taking an oath to fairly and impartially hold hearings and determine acreage.

(b) The committee to determine acreage shall give notice of the time and place of the hearing on the acreage before the 10-day period immediately preceding the day of the hearing.

(c) At the hearing each landowner may testify about the amount of land owned by him in the district. The committee has

final jurisdiction to determine the exact acreage of each landowner in the district.

(d) After the committee makes its determination, the land in the district shall be annually placed on the tax rolls according to the acreage determined without rendition of taxes.

Acts 1971, 62nd Leg., p. 521, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 15, eff. Sept. 1, 2001.

SUBCHAPTER H. DISSOLUTION

Sec. 56.291. AUTHORITY TO DISSOLVE A DISTRICT. Subject to the provisions of Sections 50.251-50.256 of this code, a district created under this chapter may be dissolved as provided in this subchapter.

Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.292. PETITION. At a regular meeting of the board, any resident freehold taxpayer of the district may present a petition signed by at least five percent of the qualified voters of the district, or if there are fewer than 100 resident freehold taxpayers in the district, then by one-third of the resident freehold taxpayers requesting the dissolution of the district, and on verification of the petition signatures, the board shall order an election to be held in the district at the earliest legal time to determine whether or not the district should be dissolved.

Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 15, eff. Sept. 1, 2001.

Sec. 56.293. DEPOSIT. (a) Any person filing a petition shall deposit with the board an amount sufficient to pay the cost of conducting an election within the district which shall be held by the board until the result of the election to dissolve the district is officially announced and entered in the record of the district.

(b) If the result of the election favors dissolving the district, the board shall return the deposit to the petitioners or

their agent or attorney, and the cost and expenses of holding the election shall be paid by the district, but if the result of the election is against dissolving the district, the board shall pay the cost and expenses of the election from the deposit and return the balance of the deposit to the petitioners or their agent or attorney.

Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 15, eff. Sept. 1, 2001.

Sec. 56.294. ELECTION. (a) Notice of the election to dissolve the district shall be posted and the election shall be held as provided by this chapter for elections to create a district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Dissolution of the drainage district."

(c) For the proposition to carry, two-thirds of those persons voting at the election must vote to dissolve the district.

Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.295. RESULT OF THE ELECTION. (a) The returns of the election shall be made and the votes canvassed as provided in this chapter.

(b) If the proposition carries, the board shall declare the result and enter it in its minutes substantially as follows:

"_____ and _____ others having petitioned for the dissolution of _____ County Drainage District No. ____; an election having been held in the district on _____; and a two-thirds majority of the votes cast in the election having favored dissolution of the district; now, therefore, the board of directors declares that _____ Drainage District No. ____ is dissolved."

(c) If the proposition fails to carry, another election for the same purpose may not be held for at least two years after the results of the election are declared.

Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 16, eff. Sept. 1,

2001.

Sec. 56.296. SETTLEMENT OF DEBTS. (a) When the district is dissolved, the commissioners court shall provide for settlement of debts of the district, including costs and expenses of holding the dissolution election, and may levy and collect a tax on property in the district in the amount necessary to pay all valid debts and obligations of the district except district bonds.

(b) Unless district bonds are retired as provided in Section 56.299 of this code, the bonds shall be paid according to their terms by levy and collection of an annual tax.

Acts 1971, 62nd Leg., p. 524, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.297. DISSOLUTION TAX. (a) The commissioners court shall determine the amount of debt owed by the district and shall apportion the amount of the debt among the property taxpayers of the district, and a tax shall be levied on each piece of property in the district to pay for its proportionate share of the debt. Each taxpayer may pay his tax annually or in one payment, and the amount of debt apportioned to each tract of land is a lien on that piece of land for the payment of the debt.

(b) Payment of taxes under this section may be made either in money or by surrender of bonds or other evidences of debt of the district. Any holder or owner of debt owed by the district may surrender his bonds and coupons or approved accounts to the district tax collector to pay for taxes owed on property in the district which is owned by the holder or owner of the debt, and when surrendered, the bonds or evidences of debt shall be marked paid and a receipt issued for them. The holder of bonds and coupons may only surrender coupons that are matured at the time of their surrender, and unmatured bonds are eligible only to pay unmatured tax liability in advance and only for the year in which the bonds mature.

(c) After taxes are paid as provided in this section, the taxpayer and his property are released from further liability for debts of the district, and the district tax collector shall issue a release and a receipt for the taxes which shall be filed with the

clerk of the county court in the county in which the property is located in the manner provided by law for filing documents relating to real estate.

Acts 1971, 62nd Leg., p. 524, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.299. RETIREMENT OF BONDS. If there are outstanding bonds at the time the district is dissolved, the commissioners court may immediately enter into negotiations with the bondholders to retire the bonds before maturity, and if under their terms or by agreement between the commissioners court and the bondholders, the bonds can be retired at an earlier date than appears on their face and if the commissioners court considers retirement to be feasible and practicable, an agreement may be made by the commissioners court providing for paying and retiring the bonds.

Acts 1971, 62nd Leg., p. 525, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.300. TRUSTEE. On filing and approval of a bond, the county treasurer becomes the trustee for the dissolved district.

Acts 1971, 62nd Leg., p. 525, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.301. TRUSTEE'S BOND. The county treasurer shall execute a good and sufficient bond in a sum to be determined by the commissioners court, payable to and approved by the county judge, conditioned on the faithful performance of his duties as treasurer and trustee of the district and on paying to the parties entitled to it all money and other property which he receives as trustee and treasurer. The bond shall be recorded in the minutes of the commissioners court, and on approval shall supersede the bond given by the county treasurer as treasurer of the district.

Acts 1971, 62nd Leg., p. 525, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.302. TRUSTEE'S COMPENSATION. (a) The trustee is entitled to receive for his services one percent of all money received by him for the dissolved district and one percent on all money he pays out under this subchapter, but he is not entitled to receive a commission on money controlled by him when the district was dissolved or money relinquished by him at the expiration of his

trusteeship.

(b) Only one compensation shall be paid to the trustee for his services as trustee and ex officio treasurer of the dissolved district.

Acts 1971, 62nd Leg., p. 525, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.303. POWERS OF THE TRUSTEE. (a) The commissioners court shall provide for disposition and sale of district property, and after giving the required bond, the trustee shall assume control from the commissioners court of the district's property, including money in the district treasury and books, notes, accounts, and choses of action.

(b) The trustee may sue any person in possession of property of the district or owing a debt to the district as though the district were still organized and may employ counsel to assist him in all suits and in the care and management of the business of the dissolved district.

Acts 1971, 62nd Leg., p. 525, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.304. EXPENSES OF THE TRUSTEE. (a) The trustee shall charge against the trust estate all reasonable expenses incurred by him in caring for, conducting, and controlling the business of the district, in employing counsel for the district, and in conducting or defending suits, and on posting notice as required in cases of other claims, the trustee shall present the charges to the commissioners court annually at a regular meeting.

(b) On approval by the commissioners court, the expenses become a valid and subsisting claim against the district and may be retained by the trustee out of funds controlled by him as treasurer of the dissolved district.

(c) If the claim for expenses is rejected either in whole or in part, the trustee may appeal the decision as other claimants appeal decisions under this subchapter.

Acts 1971, 62nd Leg., p. 526, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.305. PRESENTATION OF CLAIMS. (a) Within the six-month period immediately following approval of the trustee's

bond, any person who has a claim against the district shall present the claim duly verified to the trustee, and if the trustee finds that the claim is correct, he shall allow the claim, and the claimant shall file the claim with the clerk of the commissioners court before the beginning of the 20-day period immediately preceding the next regular meeting of the commissioners court.

(b) The clerk shall immediately issue notice of the filing to all persons interested in the district, and the notice shall be posted in three public places and at the courthouse door before the beginning of the 20-day period immediately preceding the next regular meeting of the commissioners court.

Acts 1971, 62nd Leg., p. 526, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.306. APPROVAL OF CLAIM. (a) At a regular meeting, the commissioners court shall determine the validity of the claim, and if the commissioners court finds that the claim is correct, it shall approve the claim and enter an order of approval in its minutes.

(b) After the claim is approved, it is a valid and subsisting claim against the district and shall be filed with the trustee who shall pay the claim in the order it was filed from the district treasury or from funds collected as liquidation taxes.

Acts 1971, 62nd Leg., p. 526, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.307. APPEAL. If any claimant is not satisfied with the judgment of the commissioners court, he may appeal the judgment in the manner that cases are appealed from the justice court.

Acts 1971, 62nd Leg., p. 526, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.308. REJECTION OF CLAIM. (a) If the trustee finds any claim unjust either in whole or in part, he shall endorse on the claim his refusal to allow it.

(b) If the whole claim is refused, the claimant may bring suit to collect the claim against the trustee in a court of competent jurisdiction in the county, and if the claim is judged valid by the court, the judgment shall be filed with the trustee and paid in its order as other claims.

(c) If the claim is refused only in part and the claimant waives his claim to the part refused, he shall file the claim in the commissioners court for approval, but if the claimant does not waive his claim to the part refused, he shall withdraw his claim from the trustee and may bring suit as provided in Subsection (b) of this section.

Acts 1971, 62nd Leg., p. 526, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.309. BONDS AND APPROVED CLAIMS. Bonds and approved claims which were outstanding debts of the district before its dissolution are valid and subsisting claims against the district without further approval under this subchapter, but they are subject to contest according to the provisions of this subchapter.

Acts 1971, 62nd Leg., p. 527, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.310. CONTESTING CLAIM. (a) If any district taxpayer files with the trustee a protest against any claim which was allowed by the former drainage commissioners before the district was dissolved and which was unpaid at the time the district was dissolved, the trustee shall refuse to pay the claim. The protest shall be accompanied by a bond in double the amount of the claim with sufficient sureties to be approved by the trustee and payable to the trustee, conditioned on payment by the contestant of all costs of suit if the claimant establishes his claim.

(b) After the trustee rejects the claim, the claimant may bring suit against the trustee to recover the claim as in other suits of a civil nature, and the contestant and his bondsman shall be parties to the suit. The trustee shall make all defenses urged against the claim by the contestant. If the claimant recovers, judgment shall be rendered against the contestant and his bondsman for costs incurred in the suit, and the claimant shall file the judgment with the trustee who shall pay the claim as other claims are paid under this subchapter.

Acts 1971, 62nd Leg., p. 527, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 56.311. FINAL REPORT OF TRUSTEE. (a) When all claims against the district are paid and all costs and expenses incurred in

controlling and managing the district are satisfied, the trustee shall file with the commissioners court his account for final settlement.

(b) The trustee's account shall include a complete statement of all money received and paid out, of all property controlled and disposed of by the trustee, and of all other matters relating to management of the district's affairs.

(c) On approval of the account, the commissioners court shall direct the trustee to turn over to persons entitled to it as found by the commissioners court all money and property remaining in the control of the trustee, and on compliance with this order, the trustee shall report to the commissioners court, and the commissioners court shall enter an order discharging the trustee and his bondsman and closing the trust estate.

(d) Before entering an order discharging the trustee and the surety on the trustee's bond and closing the trust estate, the commissioners court shall order all transactions of the trustee audited by an independent certified public accountant. A copy of the audit shall be filed with the commissioners court and the Texas Natural Resource Conservation Commission, and a copy shall be provided to the trustee.

Acts 1971, 62nd Leg., p. 527, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 17, eff. Sept. 1, 2001.

SUBCHAPTER J. ALTERNATE PROCEDURE FOR ANNEXATION BY EXISTING DISTRICT

Sec. 56.751. PETITION FOR ANNEXATION. The landowners of a defined area of territory not included in a district may file with the secretary of the board a petition requesting an election on the inclusion of the territory in a district. The petition must:

(1) be signed by registered voters residing in the territory equal in number to at least five percent of the number of votes received in the territory to be included by all candidates in the most recent gubernatorial general election; and

(2) describe by metes and bounds the territory to be

included in the district.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

Sec. 56.752. HEARING ON DETERMINATION OF PETITION. (a) The board shall hear the petition to determine if the petition meets the requirements of Section 56.751.

(b) The board by order shall set the time and place of the hearing on the petition. The hearing shall be held not less than 30 days after the date of the order.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

Sec. 56.753. NOTICE OF HEARING. (a) The secretary of the board shall issue notice of the time and place of the hearing. The notice must describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices must be posted for at least 15 days before the day of the hearing.

(c) The notice must be published one time in a newspaper with general circulation in the county. The notice must be published at least 15 days before the day of the hearing.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

Sec. 56.754. ELECTIONS TO APPROVE ANNEXATION OF TERRITORY.

(a) If the board determines the petition meets the requirements of Section 56.751, the board shall order elections to approve the annexation.

(b) Annexation of the territory must be approved by a majority vote of the voters at a separate election held in the district and by a majority vote of the voters at a separate election held in the territory proposed to be added.

(c) If the district has outstanding debts or taxes, the election to approve annexation also determines whether the territory to be added assumes its proportion of the debts or taxes if the territory is added to the district.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

Sec. 56.755. NOTICE AND PROCEDURE OF ELECTION. The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by Subchapter E, Chapter 58.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

Sec. 56.756. LIABILITY OF ADDED TERRITORY. The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

SUBCHAPTER K. CONSOLIDATION OF DISTRICTS

Sec. 56.801. CONSOLIDATION OF DISTRICTS. Two or more districts governed by this chapter may consolidate into one district as provided by this subchapter.

Amended by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Sec. 56.802. CONSOLIDATION BY AGREEMENT. (a) The boards of the districts proposed to be consolidated may initiate consolidation.

(b) The board of each district proposed to be consolidated must agree on the terms and conditions of consolidation. The consolidation agreement may include adoption of a name for the consolidated district and designation of election precincts for the consolidated district. After the boards have agreed to the terms and conditions of consolidation, the boards jointly shall order an election to be held in each district to determine whether the districts should be consolidated.

Amended by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Sec. 56.803. CONSOLIDATION BY PETITION. (a) Consolidation may be initiated by a petition requesting that the districts be consolidated.

(b) The petition must be signed by a number of qualified voters in each district proposed to be consolidated that is equal to at least five percent of the number of votes cast in the district in the most recent gubernatorial general election. There must be one petition for each district proposed to be consolidated. A qualified voter may sign only the petition for the district in which the voter resides.

(c) The petitions shall be filed simultaneously with the secretary of each district proposed to be consolidated.

(d) A district's board shall determine whether the petition presented to that district meets the requirements of Subsection (b) and shall notify the board of each other district proposed to be consolidated whether the petition meets the requirements of Subsection (b).

(e) If the petitions meet the requirements of Subsection (b) in all districts proposed to be consolidated, the boards of the districts proposed to be consolidated shall:

(1) issue a joint order for an election to be held on the same day in each district to determine whether the districts should be consolidated; and

(2) give notice of the election in the manner provided by law for other elections.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Sec. 56.804. TIME OF HOLDING ELECTION; COST OF ELECTION.

(a) The election shall be held on a uniform election day in May.

(b) The election date selected must provide sufficient time for the preparation of the necessary voter registration lists for each district.

(c) Each district proposed to be consolidated is responsible for holding the election in that district and for the cost of the election in that district.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 340, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 6, eff. October

1, 2005.

Sec. 56.805. BALLOT. The ballot in the election shall be printed to permit voting for or against the proposition: "Consolidation of _____ (names of districts to be consolidated) into a single drainage district."

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Sec. 56.806. CANVASS; RESULT. (a) The board of each district proposed to be consolidated shall canvass the returns of the election held in that district. The board of each district shall publish the results for that district.

(b) If the majority of votes cast in each district favor the consolidation, the districts become one district and are governed as one district.

(c) If the proposition does not carry, another election for consolidation may not be held in any district that was proposed to be consolidated for at least two years after the results of the election are declared.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Sec. 56.807. GOVERNING CONSOLIDATED DISTRICTS; ELECTION OF DIRECTORS. (a) When two or more districts are consolidated, they become one district and are governed as one district.

(b) Until the directors of the consolidated district are elected and qualify, the directors of each district shall continue to act jointly as directors of the consolidated district. A vacancy on the joint boards occurring before the permanent directors of the consolidated district are elected may not be filled unless the number of members on the joint board is three or fewer. If the number of members on the joint board is reduced to three or fewer, the consolidated district shall be governed by three directors. If there are fewer than three directors, vacancies shall be filled in the same manner as vacancies on elected boards until there are three directors.

(c) The joint board shall immediately order an election of directors of the consolidated district to be held on the next

available uniform election date as provided for election of directors under Chapter 49.

(d) The consolidation agreement may provide that the directors of the original districts continue to act jointly as directors of the consolidated district until the next election. The agreement may name persons to serve as directors of the consolidated district until the next election if all directors of the original districts agree to resign.

(e) The joint board of the consolidated district shall approve the bond of each new director.

(f) If any of the consolidated districts were operating under Section 59, Article XVI, Texas Constitution, at the time the districts were consolidated, the consolidated district shall operate under Section 59, Article XVI, Texas Constitution, and limitations imposed by Section 52, Article III, Texas Constitution, and this chapter on debts to be incurred and taxes to be levied do not apply to that district unless, not later than the 60th day after the districts are consolidated, the board of directors of the consolidated district adopts a resolution that the consolidated district shall operate under Section 52, Article III, Texas Constitution.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Sec. 56.808. TITLE TO PROPERTY; ASSUMPTION OF DEBT. (a) Title to all property of the consolidating districts vests in the consolidated district. The consolidated district assumes and is liable for the outstanding indebtedness of the consolidating districts.

(b) All enforceable contract rights held or owned by a consolidating district are owned and held by the consolidated district. The consolidated district is liable for contractual obligations of a consolidating district.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Sec. 56.809. UNEXPENDED BOND PROCEEDS. Any money received from the sale of bonds by a consolidating district that has not been spent before the date of consolidation may be spent by the

consolidated district only on the project for which the bonds were issued.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

Sec. 56.810. FISCAL YEAR; BUDGET. (a) A consolidated district shall adopt a fiscal year. The fiscal year may be provided for in the consolidation agreement or adopted by the board of the consolidated district after the consolidation election.

(b) The fiscal year of each district that has been consolidated ends on the last day of the month in which the consolidation election was held. Audits of each district that was consolidated shall be prepared up to and through the last day of the month in which the consolidation election was held. The first audit of the consolidated district shall be for the period beginning on the first day of the month after the consolidation election and ending on the last day of the fiscal year adopted for the consolidated district.

(c) A budget shall be adopted for the period beginning on the first day of the month after the consolidation election and continuing through the end of the fiscal year adopted for the consolidated district.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.