

## AUXILIARY WATER LAWS

### CHAPTER 3. WATER CONTROL AND PRESERVATION DISTRICTS

Art. 7808. MAY ESTABLISH. One or more water control and preservation districts may be established in the several counties, or a part of any county, or in two or more adjacent counties, or in parts of two or more adjacent counties, or in one county and part of an adjacent county or counties, in the manner provided in this chapter. Said districts may or may not include within their boundaries villages, towns and municipal corporations, or any part thereof, but no land shall be at the same time included within more than one such district. All such districts are defined districts within the meaning of Section 52, Article 3 of the State Constitution.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7809. PURPOSES. Said districts, when established, shall be for the purpose of the control and preservation of the purity of the waters of any rivers, creeks, bayous, lakes, canals, streams or other waters of any kind and character situated or flowing, in whole or in part, through the said district, or any part thereof, by the prevention of the inflow of salt water or other deleterious substances, or by the changing of said waters from salt to fresh water, and the impounding of fresh water for such purposes.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7810. POWERS. Such districts, when established, shall have full power to erect, construct, maintain, repair and reconstruct dams, bulkheads, jetties, locks, gates, or any other character of improvement or construction necessary to the accomplishment of any such purpose, and to make such construction without the boundaries of the district, where same may be deemed necessary to the preservation, or the improvement of the purity and irrigable quality of such waters; and may issue bonds in payment therefor.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7811. PETITION. Upon the presentation to the commissioners court of a petition signed by twenty-five of the resident property taxpayers of any proposed district praying for the establishment thereof within the county, and setting forth the boundaries, and accompanied by a map thereof, the general nature of the improvements proposed, and an estimate of the probable cost thereof, and praying for the issuance of bonds and levy of a tax in payment thereof, and designating a name for such district which shall include the name of the county; and accompanied by the affidavit of the petitioners stating that they are resident property taxpayers of such county; the court shall set the same down for a hearing at a regular or called session, not less than thirty nor more than sixty days thereafter.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7812. CONTINGENT DEPOSIT. The petition shall be accompanied by five hundred dollars in cash which shall be deposited with the clerk of the commissioners court of the county in which the largest portion of the proposed district is situated. If the result of the original election is in favor of the establishment of the district, the clerk shall return said deposit to the petitioners, their agent or attorney; otherwise the clerk shall pay the same out upon the vouchers signed by the county judge of such county, for all expenses and costs pertaining to the proposed district up to and including said election, and shall return the balance to the petitioners, their agent or attorney.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7813. NOTICE OF HEARING. The court shall, when setting a date for the hearing, order the clerk of said court to give notice of the date and place of said hearing by posting, or causing to be posted, not less than twenty days prior to the hearing, a copy of said petition and the order of the court thereon, one at the courthouse door and four others within the limits of the proposed district. Said clerk shall receive one dollar for each such notice and five cents per mile for each mile necessarily traveled in posting such notices.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7814. HEARING. Any person who may be affected thereby may appear before said court and contest the creation of said district, or contend for its creation, and may offer testimony in favor of or against the boundaries of said district to show that the proposed improvements would or would not be of any public utility, and would or would not be feasible or practicable, and the probable cost of such improvements, or as to any other matter pertaining to the proposed district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7815. HEARING: AUTHORITY OF COURT. Unless otherwise provided, the commissioners court shall have exclusive jurisdiction to hear and determine all contests and objections to the creation and establishment of any district, and shall have exclusive jurisdiction in all subsequent proceedings of any organized district, and may adjourn hearing on any matter connected therewith from day to day; and all judgments, decrees or orders rendered or entered by said court in relation thereto shall be final.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7816. FINDINGS. If at said hearing it appears to the court that the organization of such district and the proposed improvement is feasible and practicable, and that it would be a public benefit or public utility, then it shall so find, and shall also find the amount of money necessary for said improvement and for all expenses incident thereto and the expenses necessarily incurred in connection with the creation and establishment of the district, and shall specify the amount of bonds to issue, the length of time the bonds shall run, and the rate of interest said bonds shall bear. If the court finds that such organization and improvement is not feasible or practicable, or that it would not be a public benefit or utility, then it shall dismiss the petition at the cost of the petitioners. In either case, the court shall enter its findings in the records of the court.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7817. MAY RENEW PETITION. The order dismissing said petition or any appeal therefrom shall not prevent the presentation at any subsequent time of a similar petition with changed boundaries, but the presentation of a similar petition with identical boundaries shall not be permitted until the expiration of six months after such dismissal.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7819. APPEAL: PROCEEDINGS. Within five days from the filing of the appeal bond, the county clerk shall transfer to the district clerk all records filed with the commissioners court pertaining to the establishment of said district, and it shall not be necessary to file additional pleadings in said court. The court shall set the matter down for hearing de novo, and the matters shall be tried and determined by the court. The judgment of the district court shall be final and conclusive, and shall be certified to the commissioners court for its further action.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43; Acts 1981, 67th Leg., p. 2629, ch. 707, Sec. 4(5), eff. Aug. 31, 1981.

Art. 7820. ELECTION ORDER. If the petition is granted, the commissioners court shall order an election to be held in such district at the earliest legal time, to determine whether or not such district shall be created and whether or not a tax shall be levied sufficient to pay the interest and provide a sinking fund to redeem said bonds at maturity. Said order shall specify the amount of bonds to be issued, the length of time said bonds shall run, and the rate of interest they shall bear, as determined by the court.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7821. NOTICE OF ELECTION. Notice of such election stating the time and place of holding the same shall be given by the county clerk by posting or causing to be posted notices thereof in four public places in such district and one at the courthouse door, for thirty days prior to the election. Said notice shall also

contain the proposition to be voted on and the purpose for which said bonds are to be issued and the amount of such bonds, and shall contain a copy of the election order.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7822. BALLOT. The commissioners court shall provide twice as many ballots as there are qualified resident property tax paying voters within such district. Said ballots shall have printed thereon the words and none others: "For the Water Control and Preservation District, and issuance of bonds and levy of tax in payment thereof;" "Against the Water Control and Preservation District, and issuance of bonds and levy of tax in payment thereof."

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7823. ELECTION: CONDUCT OF. None but resident property taxpayers who are qualified voters of said proposed district shall be entitled to vote at such election. The commissioners court shall create and define, by an order of the court, the voting precincts in the proposed district, and shall name convenient polling places therein, and shall appoint the judges and other necessary election officers.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7824. LIST OF VOTERS. The tax collector of the county wherein such district is situated, prior to the election, shall make a certified list of the property taxpayers of said district and furnish to the presiding judge of each precinct a list of such voters in such precinct. No person whose name does not appear in said list shall vote at any election under this chapter, except as provided in the two succeeding articles.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7825. VOTER'S OATH. Any person who acquired property in said district after the first day of January of the preceding year may vote in said election upon taking the following oath before the presiding judge of the polling place where he offers to vote, and such judge is authorized to administer same: "I do solemnly swear

that I am a qualified voter of ..... County and that I am a resident property taxpayer of the proposed district, that I was not subject to pay property tax in said district for the preceding year and have not voted before at this election."

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7826. TAXPAYER'S OATH. Any person whose name was erroneously omitted from said list of voters may vote at said election upon the taking the oath as prescribed in the preceding article except that in lieu of the clause "that I was not subject to pay property tax in said district for the preceding year," there shall be substituted "that I was subject to and did pay property tax in said district for the preceding year.["]

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7827. RESULTS OF ELECTION. Said court shall canvass the vote, and if two-thirds of such votes are in favor of the proposition submitted, then the court shall declare the result of said election to be in favor of said district, and shall enter same in their minutes as provided in the succeeding article.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7828. DECLARATION OF RESULT. Said order of the court shall be as follows: "Commissioners court of ..... County, Texas, ..... day of ..... A.D. .... in the matter of petition of ..... and ..... others, praying for the establishment of a Water Control and Preservation District, and issuance of bonds and levy of taxes in said petition fully described and designated by the name of ..... Water Control and Preservation District ..... Be it known that at an election called for that purpose in said district, held on the ..... day of ..... A.D. ...., a two-thirds majority of the resident property taxpayers voting thereon voted in favor of the creation of said District, and the issuance of bonds and levy of a tax. Now, therefore, it is considered and ordered by the court that said District be and the same is hereby established by the name of ..... Water Control and Preservation District ....., and that

the bonds of said District in an amount not exceeding ..... dollars be issued by the Directors of said District, and that said Board of Directors levy a tax of ..... cents on the hundred dollars of valuation, or so much thereof as may be necessary, upon all property within said district, whether real, personal, mixed or otherwise, sufficient in amount to pay the interest on such bonds and provide a sinking fund sufficient to redeem them at maturity, and that if said tax shall at any time become insufficient for such purpose, same shall be increased by said Directors until same is sufficient. The metes and bounds of said District being as follows, to-wit: (giving the metes and bounds.)"

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7829. BOARD OF DIRECTORS. At the same meeting when said order is made, or at a called meeting within five days thereafter, the court shall appoint a board of directors consisting of three members, all of whom shall be freehold property taxpayers and legal voters of the county embraced in whole or in part within the district, and more than twenty-one years of age. Each shall receive three dollars per day for each day necessarily taken in the discharge of their duties as such; and shall hold office for two years, unless sooner removed by a majority vote of said court. Upon the expiration of their terms of office, the court shall appoint their successors by majority vote. Should any vacancy occur in said board, the same shall be filled in like manner by said court.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7830. COMBINED DISTRICT. Where a proposed district lies partly within two or more counties, the petition for the establishment of said district shall be presented to the commissioners court of each county. Each such court shall give all necessary notice as provided for a single district in one county, but stating that same is a part of such entire district, and shall order an election, appoint all necessary officers, furnish all supplies, canvass the returns and declare the result of such election, all as provided for a single district. The presiding officer of each court shall then certify and report the result of

said election to the county judge of the county in which the largest portion of such district is situated.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7831. COMBINED DISTRICT: DECLARATION. Said county judge shall canvass said vote and declare the result thereof, and if two-thirds of such votes favor the creation of said district, he shall declare the result and make the same order as provided herein for a single district. Copies of such order shall be filed with the county clerk of each county and shall be held to be a proclamation of the result of said election.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7832. COMBINED DISTRICT: HEARING. The commissioners court of each county shall hear and determine the matters relating to the establishment of said district in their county, in the same manner as provided for a single district, and appeals may be taken therefrom to the district court of any county in which any part of said district is situated, in the manner provided herein for a single district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7833. COMBINED DISTRICT: DIRECTORS. A board of five directors shall be elected at the same election held for the establishment of such district, and the ballot therefor may have printed thereon the names of such candidates, or the voter may write upon his ballot the names of the persons voted for as directors; and the five persons receiving the highest number of votes so cast shall be the directors of said district, and shall hold office until the next regular election. In case of vacancy in said board, or if the number of directors is reduced by any cause to less than three, said vacancies shall be filled in the same manner as provided by law in such cases for directors of water improvement districts under Chapter 2 of this title.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7834. COMBINED DISTRICT: ELECTION. On the second



Tuesday of January after the establishment of such district, and biennially thereafter, an election for such directors shall be held in each such county in accordance with the election laws of this State and the provisions of this chapter for elections for establishing a district. Said directors shall hold office for two years. The directors shall give notice of the election, appoint election officers, receive and canvass the election returns and perform all other duties necessary for holding said elections.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7835. DIRECTOR'S BOND AND OATH. Within ten days after their appointment or election, or as soon as practicable thereafter, the directors shall each make a good and sufficient bond for five thousand dollars payable to their district, conditioned upon the faithful performance of their duties, to be approved by the commissioners court of the county in which the director resides, and such bond and a copy of the order approving same shall be filed with the county clerk of the county in which the largest part of the district is situated. Such clerk shall record and index the same in the deed records in the manner provided for recording and indexing deeds. Each director shall take the official oath before the county clerk of the county in which the director resides. All bonds and oaths shall be delivered by said clerks to the district depository and be by it safely kept and preserved for the district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7836. COUNTY OFFICERS: COMPENSATION. Unless otherwise provided, the duties and powers herein conferred upon the county judges and members of the commissioners court, and other officers are made a part of the regular duties of said officials, which they shall render and perform without additional compensation, and the county clerk shall receive the same compensation for his services hereunder as provided for similar services under Chapter 2 hereof.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7837. ORGANIZATION OF BOARD. As soon as possible after

their qualification, the directors shall organize by electing one of their number president and one as district secretary. When the board consists of three members, any two directors shall be a quorum; and when it consists of five members, any three directors shall be a quorum.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7838. MEETINGS. During the progress of the construction of any improvement under contract, the directors shall maintain a regular office within such district, and may in their discretion when deemed necessary, maintain a regular office in the district during any other time. The directors shall hold an annual meeting on the first day of December at ten o'clock A.M. and may provide for meetings at stated intervals by resolution duly passed, and the president or any two directors may call special meetings at any time that may be deemed proper or necessary.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7839. POWERS. The directors shall have control over the management of all district affairs, shall make all contracts pertaining thereto, and shall employ all necessary employés for the proper conduct and operation of such district, including engineers, bookkeepers and such other assistants and such laborers as may be required, at such compensation as they may determine, and may require bonds of any employés in any amount they may determine. They may employ attorneys to represent such district in the preparation of any contract or the conduct of any proceedings in or out of court, and to be the legal adviser of the directors, on such terms and for such fees as may be agreed upon by them.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7840. POWERS: LIMITATION. Where the district lies wholly in one county, the directors shall not, after the completion of the improvements, employ any attorneys as legal advisers of the district or an engineer for such district, or any other employés, except with the concurrence and consent of the commissioners court of such county; and the compensation paid by any such attorney,

engineer, or employé so employed shall be fixed by the directors subject to the approval of the commissioners court.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7841. FURTHER POWERS. The directors may employ a general manager to have general charge of the work, paying such compensation as may be agreed upon by the directors. A director may be appointed as general manager at such compensation as may be fixed by the other directors, and when so employed he shall also perform the duties of a director, but shall not receive the compensation to be paid to the directors. The directors may also buy all necessary work animals, machinery and supplies and material of all description as may be required in the construction, operation or repairing of the improvements of the district, and may do and perform all things necessary and proper in carrying out the purposes of said district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7842. OFFICIAL BONDS. All district officers and employés who may be required to give bond or security may furnish bonds of surety companies, subject to the approval of the directors. All such bonds shall be preserved by the directors as the property of said district. After the organization of a district, all bonds required of any district officer or employé shall be approved by the directors.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7843. DISTRICT RECORDS. The directors, through the secretary, shall keep a true account of all matters and proceedings of the board, and shall maintain the records of the district in a secure manner. The preservation, microfilming, destruction, or other disposition of the records of the district is subject to the requirements of Subtitle C, Title 6, Local Government Code, and rules adopted under that subtitle.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 22, eff. Sept. 1, 1989.

Art. 7844. DISBURSEMENTS. All payments of any district funds shall be by voucher upon the district depository, and all such vouchers shall be signed by the president or any two directors. All vouchers shall be issued from a regular duplicate book containing a duplicate, which shall be preserved.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7845. DISTRICT DEPOSITORY. The directors shall select a depository for such district in the same manner as now provided by law for the selection of county depositories, and such depository shall be regulated by the same laws as those governing county depositories. In such selection, the directors shall perform the same duties as are incumbent upon the county judge and members of the commissioners court in the selection of county depositories. Such depository shall make and file reports and preserve the district records as required of depositories under Chapter 2 hereof.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7846. AUDIT AND REPORT. The directors shall annually require an audit to be made of the district records and accounts, at the time and in the manner provided for audits of Water Improvement Districts under Chapter 2 of this title, and on the first of January of each year they shall make and file a report of the condition of the district affairs and other data required of directors of Water Improvement Districts.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7847. STATUS OF DISTRICT. Any district may by and through its directors sue and be sued in the name of such district, and all courts of this State shall take judicial notice of the establishment of such districts; and said districts shall contract and be contracted with in the name of such districts. They shall have a circular seal containing a five pointed star in the center surrounded by the name of the district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7848. SUITS AFFECTING DISTRICT. No suit shall be brought in any Court of this State contesting the validity or enjoining the formation of any district, or any bonds issued hereunder, or in anywise affecting the establishment of the district, or issuance of bonds by such district, except in the name of this State by the Attorney General, upon his own motion or upon the motion of any party affected thereby, upon good cause shown.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7849. PROPERTY RIGHTS. The directors are hereby empowered to acquire the necessary right of way and property of any kind or character whatsoever for all necessary improvements contemplated by this chapter, by gift, grant, purchase or condemnation proceedings, within or without the boundaries of the district; and any property acquired may be conveyed to the United States in so far as the same shall be necessary for the construction, operation and maintenance of works by the United States under any contract that may be entered into between the district and the United States.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7849a. RESISTING WATER CONTROL OFFICER. The directors of any Water Control and Preservation District and the engineers and employés thereof are hereby authorized to go upon any land lying within said district for the purpose of examining same for locating dams, bulkheads, jetties, locks, gates or any other character of improvement or construction necessary to the accomplishment of the purposes of the district, to make maps and profiles thereof, and are hereby authorized to go upon lands beyond the boundaries of such districts for the purposes stated and for any other purposes necessarily connected therewith whether herein enumerated or not. Any person who shall wilfully prevent or prohibit any such officer or employé from entering upon such land for such purpose shall be fined one hundred dollars for each day he shall so prevent or prohibit such officer or employé.

Acts 1918, 35th Leg., 4th C.S., p. 95.

Art. 7850. EMINENT DOMAIN. The right of eminent domain is hereby conferred upon all districts for the purpose of condemning and acquiring the right of way over and through all lands, private and public, except property used for cemetery purposes, necessary for making and maintaining dams, bulkheads, jetties, locks, gates and all other improvements necessary and proper for such construction. Such right shall extent to any county in this State. All such condemnation proceedings shall be under the direction of the directors and in the name of the district; and all compensation and damages adjudicated in such proceedings shall be paid out of the "Construction and Maintenance Fund."

Acts 1918, 35th Leg., 4th C.S., p. 95.

Art. 7851. DISTRICT ENGINEER. The directors shall have authority to employ a competent engineer whose term of office shall be at the will of the directors. He shall make all necessary surveys, examinations, investigations, maps, plans, and drawings with reference to the proposed improvements. He shall make an estimate of the cost of such improvements, shall supervise the work thereon, and perform all such duties as may be required of him by the directors. If any proposed improvement or construction work necessary to the accomplishment of the purposes authorized in this chapter requires the permission or consent of the Federal Government or any department or officer thereof, the directors shall have authority to obtain such consent, and in lieu of or in addition to the employment of the district engineer, they shall have power to adopt any survey of any waters theretofore made by the United States, and to arrange for surveys, examination and investigation of the proposed improvements, and supervision of such work by the United States or the proper department or officer thereof.

Acts 1918, 35th Leg., 4th C.S., p. 95.

Art. 7852. FEDERAL CO-OPERATION. The directors shall have full power to co-operate and act with the United States or any officer or department thereof, in any manner pertaining or relating to the construction and maintenance of any improvement, whether by

survey, work or expenditure of money made or to be made, either by the directors or by Federal authority, or both. Such directors shall have authority to agree and consent to the United States entering upon and taking the management and control of said work of construction, repair or reconstruction and maintenance, in so far as it may be necessary or permissible under the laws of the United States and the regulations and orders of any department thereof.

Acts 1918, 35th Leg., 4th C.S., p. 95.

Art. 7853. CONSTRUCTION CONTRACTS. If the district improvements are not carried out by the United States, the contracts for such improvements shall be let by the directors to the lowest and best responsible bidder. If more than one improvement is to be made, the contract may be let separately for each, or one contract for all such improvements. These rules shall govern the letting of such contracts: 1. Bids shall be called for by advertising the same in one or more newspapers of general circulation in Texas, once a week for four consecutive weeks, and by posting notices for at least thirty days at the courthouse door of the counties in the district and four other notices in each county. 2. Any person, firm, or corporation desiring to bid on the construction of any work so advertised, upon application to the district secretary, shall be supplied with the surveys and plans for said work. All bids shall be in writing and sealed and delivered to the president or district secretary, together with a certified check for two per cent of the total amount bid. Such deposit shall be forfeited to the district in case the bidder refuses to enter into a proper contract and make the necessary bond, if his bid is accepted or returned to the bidder if his bid is rejected. Any bid may be rejected at the discretion of the directors. 3. Each contractor shall give bond payable to the district in such amount as may be determined by the directors, not to exceed the contract price, and not less than fifty per cent thereof, conditioned that he will faithfully perform the obligations, agreements and covenants of such contract, and that in default thereof, he will pay to said district all damages sustained by reason thereof; and such other conditions as may be required by

law of contractors for public work. Said bond shall be approved by the directors. 4. All contracts shall be in writing and signed by the contractors and president of the directors and attested by the district secretary. A copy of same shall be filed with the clerk of the county in which the largest portion of such district is situated.

Acts 1918, 35th Leg., 4th C.S., p. 95.

Art. 7854. SUPERVISION OF WORK. All work contracted for, unless done under Federal supervision, shall be done under the supervision of the district engineer. When the work is completed according to the contract, he shall make a detailed report of same to the directors, showing whether the contract has been fully complied with according to its terms, and if not, in what particular it has not been so complied with. The directors shall not be bound by such report, but may in addition thereto fully investigate such work and determine whether or not such contract has been complied with; and while such work is in progress, they shall inspect the same.

Acts 1918, 35th Leg., 4th C.S., p. 95.

Art. 7855. CONTRACT: PAYMENT. (a) The District shall pay the contract price of such contracts as hereinafter provided:

(b) The directors shall draw a voucher on the District depository for the amount of any payments in favor of the contractor or his assignee. Said vouchers shall be paid out of the Construction and Maintenance Fund. The District will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the district engineer, on estimates approved by the district engineer. If requested by the district engineer, the contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the district engineer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the



contractor at locations other than the site may also be taken into consideration (1) if such consideration is specifically authorized by the contract and (2) if the contractor furnishes satisfactory evidence that he has acquired title to such material and that it will be utilized on the work covered by this contract.

(c) In making such progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the directors, at any time after 50 percent of the work has been completed, find that satisfactory progress is being made, they may authorize any of the remaining progress payments to be made in full. Also, whenever the work is substantially complete, the directors, if they consider the amount retained to be in excess of the amount adequate for the protection of the district, at their discretion, may release to the contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made therefor without retention of a percentage.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43; Acts 1971, 62nd Leg., p. 2775, ch. 899, Sec. 1, eff. June 14, 1971.

Art. 7856. MAINTENANCE OF DISTRICT. After the full and final completion of all improvements of the district, and after payment of all expenses incurred under this chapter, the directors are authorized to use the funds remaining in the Construction and Maintenance Fund for the best interest of such district in the preservation, upkeep, repair and reconstruction of the works of such district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7857. JOINT PROJECT. Two or more districts may by contract join in the construction of any improvement and enter upon any work authorized hereunder, as a joint project, when in the judgment of the directors of each district, such improvement, work or construction will be advantageous to the respective districts. Such contract shall stipulate the pro rata amount to be paid by each

district for such project to provide for its maintenance, repair and reconstruction, and shall be executed by the directors. Such project may be undertaken regardless of the location of the proposed work. Such contract may be enforced and specific performance compelled by any court of competent jurisdiction.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7858. JOINT ACTION. When improvements are constructed by two or more districts, bids may be jointly called for and opened and considered at the designated office of either district, and the directors of such districts shall approve the letting of the contract and contractor's bond, and may meet and transact all business for that or any other purpose concerning such project at a place outside the district, or at any office established for such joint project. All bids, bonds, contracts, etc., of said project shall be in the name of said districts, which are empowered to do all acts by joint action that one district may do, the action of each district being determined by its directors. A general manager, who may be a director of either district, may be employed for such project, whose duties may be set forth in the joint ownership contract.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7859. ISSUANCE OF BONDS. Immediately after their organization, the directors shall enter an order directing the issuance of bonds for such district within the limits authorized by the election held therefor, sufficient to cover the cost of the proposed improvements, all of the expenses incident thereto, and the expenses necessarily incurred in connection with the creation and establishment of the district; and they shall levy a tax upon all property subject to taxation in the district, sufficient to pay the interest on such bonds, with an amount to be placed in the sinking fund sufficient to redeem said bonds at maturity, and such levy shall remain as a levy for such purpose until a new levy is made.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7860. BONDS: REQUISITES. All bonds issued under this chapter shall be governed by the provisions of Chapter 2 of this title governing the issuance, denomination, rate of interest, maturity dates, manner of payment, proceedings to test validity, and registration by the Comptroller, of bonds of water improvement districts.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7861. BONDS: LIMIT OF ISSUE. Said bonds shall not exceed in amount one-fourth of the assessed valuation of the real property of such district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43; Acts 1979, 66th Leg., p. 2317, ch. 841, Sec. 4(i), eff. Jan. 1, 1982.

Art. 7862. BONDS: RECORD. The directors shall provide a well bound book in which a record shall be kept by the clerk of the county in which the largest portion of said district is situated, of all bonds issued with their numbers, amounts, rate of interest, date of issue, when due, where payable, the annual rate of tax levy made each year to provide for interest and sinking fund, and of each payment made thereon. The district secretary shall furnish said clerk a certified copy of all orders made in connection with the issuance and levy and assessment of taxes for the payment of interest and creating a sinking fund. Said record shall be at all times open to the inspection of all parties interested in said district, either as taxpayers or bondholders.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7863. CHANGE IN PLANS. If after an election has been held for the issuance of bonds, the directors shall consider it necessary to make any modification or change in any proposed improvements, they shall, with the concurrence of all the directors, be authorized to make such change.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7864. ADDITIONAL BONDS. If the directors shall determine to make additional improvements, works or construction in

order to carry out the purposes for which said district was organized, or to reconstruct any improvements theretofore made, and the amount derived from the bonds issued or authorized is not sufficient, a resolution to that effect shall be duly entered upon the minutes of the board, and a certified copy thereof presented to each commissioners court in the district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7865. RESOLUTION. Said resolution shall set forth the proposed work, the amount of bonds to be issued to pay for same, their rate of interest and maturity dates, and shall embody therein a request to the commissioners court or courts to order an election in such counties to vote on such propositions and whether or not a tax shall be levied to provide for the interest and sinking fund for such bonds at a day specified in the resolution.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7866. ADDITIONAL BONDS: REQUISITES. The commissioners court must, on receipt of such resolution, order an election on the day specified therein. Notice of such election shall be given, returns made, result declared, orders entered, tax levied, certified, assessed and collected, and all other matters applicable shall be performed in the same manner as herein provided in case of elections for original bonds. All provisions as to the issuance, approval, validation, registration, recordation and sale of original bonds shall be applicable to such additional bonds.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7867. ADDITIONAL BONDS: BALLOT. The ballot for such election shall have printed thereon the words and none other: "For the issuance of additional Water Control and Preservation Bonds and levy of tax in payment thereof;" "Against the issuance of additional Water Control and Preservation Bonds and levy of tax in payment thereof."

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7868. BONDS: SALE. After registration of said bonds by

the Comptroller, the directors shall sell the same on the best terms and for the best price possible, not less than their face value and the accrued interest thereon; or they may exchange bonds in payment of the contract price for work to be done for the use and benefit of said district. All moneys received from the sale of bonds shall be forthwith paid to the district depository.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7869. CONSTRUCTION AND MAINTENANCE FUND. There is hereby created a "Construction and Maintenance Fund" of such district, which shall consist of all moneys received from the sale of bonds and all other amounts received by said district from whatsoever source, except the tax collections applied to the interest and sinking fund on bonds. All expenses of any kind prior to and after the filing of the original petition necessarily incurred in connection with the creation, establishment and maintenance of any district, and improvements, repairs, cost of maintenance, salaries of all officers and employ%21es, and all expenditures for any purposes of the district shall be paid out of such fund.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43.

Art. 7870. TAX LEVY. The directors shall annually levy and cause to be assessed taxes upon all property within said district sufficient to pay the expenses of assessing and collecting same, and a tax sufficient for the expenses incident to the maintenance of the district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43; Acts 1979, 66th Leg., p. 2317, ch. 841, Sec. 4(j), eff. Jan. 1, 1982.

Art. 7871. ASSESSMENT AND COLLECTION OF TAXES. The county tax assessor-collector shall assess and collect the taxes levied by the district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 32; Acts 1979, 66th Leg., p. 2317, ch. 841, Sec. 4(j), eff. Jan. 1, 1982.

Art. 7877. MAINTENANCE TAX. The directors shall have

authority as occasion may require, in their discretion, to levy a tax on all property within such district in an amount sufficient to pay for the proper maintenance, operation and repair of any dams, bulkheads, jetties, locks, gates or any other improvement constructed by said district.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43; Acts 1979, 66th Leg., p. 2317, ch. 841, Sec. 4(j), eff. Jan. 1, 1982.

Art. 7879. INTEREST AND SINKING FUND. There is hereby created an "Interest and Sinking Fund" for such district, and all taxes collected under this chapter for the payment of bonds and interest thereon shall be credited to such fund and shall never be paid out except for the purpose of satisfying and discharging the interest on said bonds, or for the payment, cancellation and surrender of said bonds. At the time of such payment, the depository shall receive and cancel any interest coupon so paid or any bond so satisfied or discharged, and when such coupon or bond shall be turned over to the directors, the account of such depository shall be credited with the amount thereof, and such coupon or bond shall be cancelled and destroyed.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43; Acts 1979, 66th Leg., p. 2317, ch. 841, Sec. 4(j), eff. Jan. 1, 1982.

Art. 7880. MAY INVEST SINKING FUND. The directors are empowered, whenever they deem it advisable, to invest any sinking fund of the district in bonds of the United States, of this State, of any county of Texas, any irrigation or water improvement or navigation bonds, or bonds of any school district in Texas authorized to issue bonds. No bonds shall be so purchased whose terms provide for their maturity at a date subsequent to the time of the maturity of the bonds for the payment of which such sinking fund was created.

Acts 1918, 35th Leg., 4th C.S., p. 74, ch. 43; Acts 1979, 66th Leg., p. 2317, ch. 841, Sec. 4(j), eff. Jan. 1, 1982.