SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 6. WATER AND WASTEWATER

SUBTITLE G. RIVER AUTHORITIES

CHAPTER 8501. ANGELINA AND NECHES RIVER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8501.001.  DEFINITIONS. In this chapter:

(1)  "Authority" means the Angelina and Neches River Authority.

(2)  "Board" means the board of directors of the authority.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [1520](http://capitol.texas.gov/tlodocs/89R/billtext/html/HB01520F.HTM), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 8501.0015.  APPLICATION OF SUNSET ACT. (a)  The authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter.  The review shall be conducted under Section 325.025, Government Code, as if the authority were a state agency scheduled to be abolished September 1, 2025, and every 12th year after that year.

(b)  The authority shall pay the cost incurred by the Sunset Advisory Commission in performing the review.  The Sunset Advisory Commission shall determine the cost, and the authority shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Added by Acts 2015, 84th Leg., R.S., Ch. 1148 (S.B. [523](http://capitol.texas.gov/tlodocs/84R/billtext/html/SB00523F.HTM)), Sec. 2, eff. June 19, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. [619](http://capitol.texas.gov/tlodocs/86R/billtext/html/SB00619F.HTM)), Sec. 3.05, eff. June 10, 2019.

Sec. 8501.002.  WATER RIGHTS NOT AFFECTED. This chapter does not affect any existing rights, or existing priorities in the rights, to water from the source of supply. The formation of the authority or a contract for the purchase of water with the authority is not an abandonment or waiver of those rights or priorities and is not an abandonment of the original point of diversion from the source of supply. All those rights existing at the time of the formation of the authority are preserved.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.003.  REGULAR OFFICE OF AUTHORITY. A regular office shall be established and maintained for conducting authority business within the authority's territory.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.004.  RECORDS. (a) The secretary-treasurer of the board shall keep a record of all proceedings and all orders of the board.

(b)  The records of the authority are subject to public inspection.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.005.  LIBERAL CONSTRUCTION. This chapter shall be liberally construed to effectuate its purposes.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

SUBCHAPTER B. NATURE AND TERRITORY

Sec. 8501.051.  CREATION AND NATURE OF AUTHORITY. The Angelina and Neches River Authority is created as a conservation and reclamation district.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.052.  TERRITORY. (a) The authority is composed of the territory described by Section 3, Chapter 97, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended by the relevant part of Section 1, Chapter 394, Acts of the 65th Legislature, Regular Session, 1977.

(b)  The authority's territory also may have been modified under other law.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

Sec. 8501.101.  MEMBERSHIP OF BOARD. (a) The board consists of nine directors appointed by the governor with the advice and consent of the senate.

(b)  Each director must be a freehold property taxpayer and a qualified voter of the state.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [1520](http://capitol.texas.gov/tlodocs/89R/billtext/html/HB01520F.HTM), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 8501.102.  TERMS. Directors are appointed for staggered terms of six years with one-third of the directors' terms expiring every two years.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.103.  VACANCY. (a) A vacancy on the board shall be filled by appointment by the governor with the advice and consent of the senate.

(b)  A person appointed to a vacant position serves for the unexpired part of the term.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.104.  OATH AND BOND REQUIREMENT FOR DIRECTOR. (a) A director shall, within 15 days after the date of appointment, qualify by taking the constitutional oath of office and by filing a good and sufficient bond with the secretary of state.

(b)  The bond is subject to approval by the secretary of state and must:

(1)  be in the amount of $1,000;

(2)  be payable to the authority; and

(3)  be conditioned on the faithful performance of the duties as a director.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.105.  COMPENSATION OF DIRECTORS. Unless the board by resolution increases the fee of office to an amount authorized by Section 49.060, Water Code, a director shall receive as a fee of office an amount not to exceed $10 for each day of service necessary to discharge the director's duties, if the board votes to authorize the service.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.106.  QUORUM RELATING TO CONSTRUCTION MATTERS. The concurrence of five directors is required for entering into a construction contract or for authorizing the issuance of a warrant to pay for a construction contract.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [1520](http://capitol.texas.gov/tlodocs/89R/billtext/html/HB01520F.HTM), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 8501.107.  OFFICERS. (a) The board shall elect one of the directors as president of the board, one as vice president, and one as secretary-treasurer.

(b)  The president is the chief executive officer of the authority.

(c)  The vice president shall act as president if the president is absent or disabled.

(d)  The secretary-treasurer shall act as a secretary of the board. The board shall select a secretary pro tem if the secretary-treasurer is absent or unable to act.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.108.  MEETINGS. (a) The president shall preside at all meetings of the board.

(b)  The board shall set, by order entered in the minutes of its proceedings, a specified time for the regular meetings of the board. The board shall meet for a specific occasion if called by order of the president, vice president, or a majority of the directors.

(c)  The board shall hold its meetings at its office and principal place of business unless the board directs otherwise for a specific occasion.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.109.  EMPLOYMENT PREFERENCE. (a) The authority and each contractor who employs labor for the construction of an improvement for the authority shall give a preference to the employment of:

(1)  persons who are on relief rolls or otherwise unemployed and who are able to efficiently provide the proper service in the various classifications of labor under which they are to be employed; and

(2)  if there are not sufficient persons who are qualified under Subdivision (1), qualified workers who reside in the locality where the improvement is to be constructed.

(b)  The persons to whom the preference applies include persons required for office or clerical work but do not include the key workers of the authority or contractor.

(c)  Each contract expressly entered into under this chapter by the authority with a contractor must expressly impose on the contractor the duty to give the preference provided by this section.

(d)  To the extent this section conflicts with the requirements of a federal agency providing funds for the authority, the requirements of the federal agency control.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.110.  REMOVAL OF EMPLOYEE. An employee of the authority may be removed by the board.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.111.  COMPENSATION OF EMPLOYEES. The board shall set the reasonable compensation to be paid to the general manager and other employees of the authority.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.112.  DIRECTOR'S, OFFICER'S, OR EMPLOYEE'S SURETY BOND. A bond required to be given by a director, officer, or employee of the authority must be executed by a surety company authorized to do business in this state, as surety on the bond.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.113.  CONFLICT OF INTEREST; CRIMINAL PENALTY. (a) A director or an engineer or employee of the authority may not be directly or indirectly interested, personally or as an agent for another person, in a contract for the purchase or construction of any work by the authority.

(b)  A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $1,000, by confinement in the county jail for not less than six months or more than one year, or by both the fine and confinement.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 8501.151.  POWERS UNDER CONSTITUTION AND OTHER LAW. The authority has the powers of a conservation and reclamation district under the constitution and other laws of this state, including the powers:

(1)  expressly authorized in Section 59, Article XVI, Texas Constitution, for a district created to conserve, store, control, preserve, use, and distribute the storm water and floodwater and the water of the rivers and streams of the state;

(2)  implied by the purposes of that section of the constitution; and

(3)  given by general law.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.152.  APPLICABILITY OF WATER CODE. The rights, powers, privileges, and functions granted to the authority, and the authority itself, are expressly subject to Chapters 11, 12, 26, and 49, Water Code, as applicable.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.153.  STATE SUPERVISION AND APPROVAL. (a) The Texas Commission on Environmental Quality shall consider the adequacy of, and decide whether to approve, any flood control or conservation improvement plan that:

(1)  is devised by the authority to achieve a plan or purpose for which the authority is created; and

(2)  contemplates improvements that are to be supervised by the commission under general law.

(b)  Before the authority establishes a diversion point or constructs a canal, pumping plant, or other work under this chapter, the authority must:

(1)  present the plans and specifications for the project to the Texas Commission on Environmental Quality; and

(2)  obtain the approval of the commission.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.154.  GENERAL POWERS RELATING TO WATER. (a) The authority has the rights and powers of an independent conservation and reclamation district to construct, maintain, and operate in the valleys of the Neches River and its tributaries, inside or outside the authority, any work considered essential:

(1)  to the operation of the authority; and

(2)  for the authority's administration in the control, storage, preservation, and distribution to all useful purposes of the water, including storm water and floodwater, of the Neches River and its tributaries.

(b)  The authority has the same power of control and regulation over the waters of the Neches River and its tributaries that the state has, subject to the constitution and statutes of this state.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.155.  POWERS RELATING TO PARTICULAR PURPOSES. For the conservation and beneficial use of the water of the Neches River and its tributaries, including storm water and floodwater, the authority may control and use the water in the manner and for a particular purpose described by Section 8501.156, 8501.157, 8501.158, 8501.159, 8501.160, or 8501.161.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.156.  POWERS RELATING TO FLOODING. In acting under Section 8501.155, the authority may:

(1)  prevent the devastation of land from recurrent overflows;

(2)  protect life and property in the authority from uncontrolled floodwater; and

(3)  encourage the conservation of soil to prevent destructive erosion and to prevent the increased flood menace related to that erosion.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.157.  POWERS RELATING TO USE OF WATER IN GENERAL. In acting under Section 8501.155, the authority may:

(1)  through practical means, provide for the control and coordination of the regulation of the water of the Neches River and its tributaries;

(2)  by adequate organization and administration, provide for preserving the equitable rights of the people of different sections of the watershed area in the beneficial use of the water of the Neches River and its tributaries;

(3)  store, control, and conserve the water of the Neches River and its tributaries inside or outside the authority and prevent the escape of that water without the maximum of public service;

(4)  equitably distribute the water of the Neches River and its tributaries to meet the regional potential requirements for all uses, including domestic, manufacturing, and irrigation uses; and

(5)  use controlled and conserved floodwater and storm water for any purpose that results in the performance of a useful service authorized by the constitution of this state.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.158.  POWERS RELATING TO DOMESTIC, COMMERCIAL, OR INDUSTRIAL USE OF WATER. In acting under Section 8501.155, the authority may:

(1)  conserve the water of the Neches River and its tributaries essential for the domestic uses of the people of the authority, including all necessary water supplies for cities and towns;

(2)  control the water of the Neches River and its tributaries and make the water available for use in the development of commercial and industrial enterprises in the entire watershed area of the authority; and

(3)  control, store, and use the water of the Neches River and its tributaries in the development and distribution of hydroelectric power, if that use is economically coordinated with other superior uses and subordinated to the uses declared by law to be superior.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.159.  POWERS RELATING TO USE OF WATER FOR IRRIGATION. In acting under Section 8501.155, the authority may provide for the irrigation of all land in the authority or land outside the authority but inside the authority's watershed area where the irrigation is required for agricultural purposes or is considered helpful to more profitable agricultural production.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.160.  POWERS RELATING TO DRAINAGE OF WATER. In acting under Section 8501.155, the authority may:

(1)  provide for the better encouragement and development of drainage systems for, and provide for the drainage of, lands in the valleys of the Neches River and its tributaries as needed for profitable agricultural production; and

(2)  provide for drainage for other land in the watershed area of the authority as required for the most advantageous use of the land.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.161.  POWERS RELATING TO ACQUISITION OR OPERATION OF WORKS, LAND, OR OTHER PROPERTY. (a) In acting under Section 8501.155, the authority may:

(1)  purchase or construct any work necessary or convenient for the exercise of the authority's powers under this chapter and to accomplish the purposes of this chapter; and

(2)  purchase or otherwise acquire land or other property necessary or convenient for carrying out the purposes of this chapter.

(b)  The plans and works provided by the authority, and the works provided under the power of the authority, shall regard primarily the necessary and potential needs for water by or within the area in the authority constituting the watershed of the Neches River and its tributaries.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.162.  ADDITIONAL POWERS RELATING TO ACQUISITION OR OPERATION OF PROPERTY. (a) In this section, "property" includes a right, including a water right, and includes land and a tenement, easement, improvement, reservoir, dam, canal, lateral, plant, work, and facility.

(b)  The authority may investigate, plan, acquire, construct, maintain, or operate any property the authority considers necessary or proper for the accomplishment of the purposes of the authority.

(c)  The power described by Subsection (b) includes the power to acquire property inside or outside the authority that is incidental or helpful to carrying out the authority's purposes under this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.163.  POWERS RELATING TO CONTRACT, LEASE, AGREEMENT, OR CONVEYANCE. (a) The authority may enter into a contract, lease, or other agreement necessary or convenient to carry out a power given to the authority by this chapter.

(b)  The authority may enter into the contract, lease, or agreement with any person, including:

(1)  an individual or artificial entity;

(2)  a corporation, including a municipal corporation and a public or private corporation; and

(3)  a government or governmental agency, including the United States and this state.

(c)  The authority may:

(1)  convey or cause to be conveyed any of its property to the United States; and

(2)  enter into a lease, regardless of whether it includes a privilege of purchase, with the United States relating to any property and obligate the authority to pay rent under the lease from the income or other revenue of the property.

(d)  A contract, lease, or agreement under this section must be approved by resolution of the board and must be executed by the president and attested by the secretary-treasurer.

(e)  This section does not authorize the assumption by the authority of any obligation requiring a payment from taxes.

(f)  The property to which Subsection (c) applies includes a right, land, tenement, easement, improvement, reservoir, dam, canal, plant, lateral, work, and facility.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.164.  RIGHT OF EMINENT DOMAIN. (a) The authority may exercise the power of eminent domain to acquire fee simple title to, or an easement over or through, any land, water, or land under water that is necessary or convenient for carrying out any purpose or power given to the authority by this chapter. The power applies to private or public property inside or outside the authority.

(b)  A condemnation proceeding is under the direction of the board and must be in the name of the authority.

(c)  The assessment of damages and all procedures related to condemnation, appeal, and payment must conform to Chapter 21, Property Code.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.165.  COORDINATION AND JOINT UNDERTAKINGS AMONG DISTRICTS. (a) A drainage, conservation, reclamation, or other district created by this state with powers provided in Section 59, Article XVI, Texas Constitution, may:

(1)  coordinate its plans with the authority; and

(2)  enter into joint undertakings with the authority for the purposes for which the entities are created.

(b)  The acts taken under Subsection (a) must be approved by a majority of the boards of directors of all the districts involved.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.166.  NO AUTHORITY FOR TAX OR SPECIAL ASSESSMENT. This chapter does not authorize the authority to impose a tax or special assessment or to create any debt payable from taxes.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

SUBCHAPTER E. GENERAL FINANCIAL MATTERS

Sec. 8501.201.  PROCEDURE FOR PAYMENT. A warrant for the payment of money by the authority may be drawn and signed by the president and the secretary-treasurer if the account under which the payment is to be made results from a contract made by the board and is ordered paid by the board.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.202.  RECORDS RELATING TO MONEY. The secretary-treasurer shall:

(1)  receive and give a receipt for all money received by the authority; and

(2)  keep records of all money received and spent by the authority.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.203.  FILING OF AUDIT. In addition to copies of the annual audit of the authority that are filed as required by Section 49.194, Water Code, a copy shall be filed with the depository of the authority and the office of the auditor.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.204.  FEES. (a) The board shall prescribe fees to be collected for:

(1)  the use of water;

(2)  a water connection; or

(3)  another service.

(b)  The board shall set the fees in amounts that are reasonable and equitable and sufficient to produce revenue adequate to pay the items described by Subsection (c). The fees may not exceed what may be reasonably necessary to fulfill the obligations imposed on the authority by this chapter.

(c)  The board shall pay the following items from the fees:

(1)  all expenses necessary to the operation and maintenance of the improvements and facilities of the authority, including:

(A)  the cost of the acquisition of materials and other property necessary to maintain the improvements and facilities in good condition and to operate them efficiently;

(B)  necessary wages and salaries of the authority; and

(C)  other expenses reasonably necessary to the efficient operation of the improvements and facilities;

(2)  the interest on any obligation issued under this chapter and payable from the revenue from the improvements and facilities; and

(3)  the amount required to be paid annually into the sinking fund for the payment of an obligation issued under this chapter and payable from the revenue of the improvements and facilities.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.205.  LIMITATION ON USE OF REVENUE. (a) A charge on the revenue derived from the improvements and facilities of the authority may not be made if the principal or interest of any obligation issued under this chapter is unpaid.

(b)  If the revenue derived from the improvements and facilities of the authority exceed the amount required for the payment of items under Section 8501.204(c), the board may pay the cost of improvements and replacements not covered by Section 8501.204(c)(1) and may establish a reasonable depreciation and emergency fund.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

SUBCHAPTER F. OBLIGATIONS RELATING TO BORROWED MONEY

Sec. 8501.251.  POWER TO BORROW MONEY; EVIDENCE OF OBLIGATION. The authority may:

(1)  borrow money from any source, including an agency of the United States; and

(2)  issue a note, warrant, certificate of indebtedness, or other form of obligation of the authority as evidence of the borrowed money.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.252.  OBLIGATION PAYABLE FROM REVENUE. (a) An obligation issued under this chapter by the authority may be made payable from and secured by a pledge of:

(1)  all the revenue derived from the operations and devices of the authority's improvements and facilities, excluding any revenue derived from a tax or assessment;

(2)  only the revenue derived from the operation of the authority's improvements and facilities acquired with the proceeds from the sale of the obligation; or

(3)  a specific part of the revenue derived from the operation of the authority's improvements and facilities.

(b)  The proceedings authorizing the issuance of the obligation must identify the method described by Subsection (a) that is to be used to pay and secure the obligation.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.253.  NO CREATION OF DEBT; NO PAYMENT FROM TAXES. (a) An obligation issued under this chapter is not a debt or a pledge of credit of the authority.

(b)  The obligation:

(1)  may not be paid in whole or part from any money raised by taxation; and

(2)  must contain a recital to that effect.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.254.  TIME OF SALE. An obligation issued under this chapter shall be sold at the time determined by the board to be expedient and necessary to the interest of the authority.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.255.  MATURITY. An obligation issued under this chapter must mature not more than 50 years after its date in the manner provided by the board.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.256.  SIGNATURES. (a) An obligation issued under this chapter must be signed by the president and secretary-treasurer of the board. An interest coupon attached to an obligation may be executed with the facsimile signature of the president and secretary-treasurer.

(b)  If an officer whose signature is on an obligation or coupon ceases to be an officer before the delivery of the obligation to the purchaser, the signature remains valid for all purposes.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.257.  LIEN ON REVENUE. (a) If more than one series of obligations is issued under this chapter payable from and secured by identical revenue, the priority of a lien against that revenue depends on the time of delivery of the obligations. A lien for a series of obligations is prior and superior to a lien for another series of obligations subsequently delivered.

(b)  For an issue or series of obligations that are authorized as a unit but delivered periodically in blocks, the board may, in the proceedings authorizing the issuance of the obligations, provide that all the obligations of the issue or series are coequal as to lien regardless of the time of delivery.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.258.  SINKING FUND: IN GENERAL. (a) A resolution or order authorizing the issuance of obligations under this chapter must provide for the creation of a sinking fund. Amounts sufficient to pay the principal of and interest on the obligations shall be paid into the fund from the revenue pledged to the payment of the obligations. The payments into the fund shall be made monthly as the revenue is collected.

(b)  In the manner provided by this chapter, the money in the sinking fund shall be applied, at or before maturity of the obligations, solely to:

(1)  the payment of interest on the obligations for the payment of which the fund is created; and

(2)  the retirement of the obligations.

(c)  A resolution or order authorizing the issuance of obligations under this chapter must provide that the revenue from which the obligations are to be paid and that is pledged to the payment of the obligations shall be:

(1)  set apart and paid into the sinking fund monthly as the revenue accrues and is received; and

(2)  disbursed in the manner provided by this chapter.

(d)  In determining the amount of revenue to be set apart, the board shall provide that the amount to be set apart and paid into the sinking fund in any year shall be not less than a fixed amount. The fixed amount must be at least sufficient to:

(1)  provide for the payment of the principal of and interest on all obligations maturing and becoming payable in the year; and

(2)  create a surplus or margin of 10 percent in excess of the amount needed under Subdivision (1).

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.259.  SINKING FUND: EXCESS MONEY. (a) At the time obligations are authorized under this chapter, the board may provide that all money in the sinking fund in excess of the amount required for the payment of the principal of and interest on the outstanding obligations, for a period the board determines, shall be spent once each year under the board's order to purchase obligations for the account of which the sinking fund has been accumulated, if the obligations can be purchased at a price the board considers reasonable.

(b)  The board may provide that, if the obligations contain an option permitting retirement before maturity, the excess amount shall be paid out as provided by this chapter for the purchase of the obligations. If the board is unable to purchase sufficient obligations of the issue to absorb all the surplus, the board shall call for redemption of a sufficient amount of the obligations to absorb, so far as practicable, the entire surplus remaining in the sinking fund.

(c)  The board may provide that any excess amount in the sinking fund that cannot be applied to the purchase or redemption of obligations shall remain in the sinking fund to be used for payment of principal or interest, when due, or for the subsequent call of obligations for purchase or redemption in the manner provided by this section.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.260.  COVENANTS FOR MARKETABILITY. (a) A resolution or order authorizing the issuance of obligations under this chapter may contain covenants with the holders of the obligations on the following subjects as considered necessary to ensure the marketability of the obligations:

(1)  management and operation of the improvements and facilities of the authority;

(2)  collection of fees for the use of the improvements and facilities;

(3)  disposition of the fees;

(4)  issuance of future obligations and creation of future liens, mortgages, and encumbrances against the improvements and facilities and the revenue of the improvements and facilities; and

(5)  other pertinent matters.

(b)  The covenants may not be inconsistent with this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.261.  HOLDER OF OBLIGATION MAY COMPEL PERFORMANCE. (a) A holder of obligations issued under this chapter or of coupons originally attached to the obligations may enforce and compel the performance by the board of all duties required of the board by this chapter, including:

(1)  setting and collecting reasonable and sufficient fees for the use of the improvements and facilities of the authority;

(2)  segregating the income and revenue of the improvements and facilities; and

(3)  applying the income and revenue under this chapter.

(b)  The holder of the obligations or coupons may act under Subsection (a):

(1)  at law or in equity; and

(2)  by a suit, action, mandamus, or other proceeding.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.262.  HOLDER OF OBLIGATION ENTITLED TO ADMINISTRATOR OR RECEIVER. (a) If there is a default in the payment of the principal of or interest on an obligation issued under this chapter, any holder of the obligation is entitled to have an administrator or receiver appointed by a court to administer and operate, on behalf of the authority and the holders of the obligation, the improvements and facilities the revenue of which is pledged to the payment of the obligation.

(b)  The administrator or receiver may:

(1)  set and collect fees sufficient to:

(A)  provide for the payment of operation and maintenance expenses as described by this chapter; and

(B)  pay any outstanding obligations or interest coupons payable from the revenue of the improvements and facilities; and

(2)  apply the income and revenue of the improvements and facilities in accordance with this chapter and the proceedings authorizing the issuance of the obligation.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.263.  ADDITIONAL SECURITY FOR OBLIGATION: MORTGAGE AND ENCUMBRANCE. (a) As additional security for the payment of an obligation issued under this chapter, the board may have executed in favor of the holders of the obligations an indenture mortgaging and encumbering:

(1)  the improvements, facilities, and other property acquired with the proceeds of the sale of the obligation; or

(2)  all the improvements, facilities, and other property of the authority.

(b)  In the encumbrance, the board may provide for granting to any purchaser at a foreclosure sale under the encumbrance a franchise to operate the improvements, facilities, and other property for a term not to exceed 50 years after the date of the purchase, subject to the laws regulating the matter.

(c)  The indenture:

(1)  may contain the provisions the board considers proper; and

(2)  is enforceable in the manner provided by the laws of this state for the enforcement of other mortgages and encumbrances.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.264.  SALE UNDER MORTGAGE OR ENCUMBRANCE. (a) Under a sale ordered under a mortgage or encumbrance described by Section 8501.263, a purchaser of the improvements, facilities, and other property at the sale, and the purchaser's successors or assigns, are vested with a permit and franchise to maintain and operate the improvements, facilities, and other property with powers and privileges like those held by the authority in the operation of the improvements, facilities, and other property.

(b)  Instead of operating the improvements, facilities, and other property as provided by Subsection (a), the purchaser and the purchaser's successors or assigns may remove all or part of the improvements, facilities, and other property for diversion to other purposes.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.265.  STATE FRANCHISE LAW NOT APPLICABLE. A statute of this state relating to the granting of franchises is not applicable to:

(1)  the authorization or execution of a mortgage or encumbrance entered into under this chapter; or

(2)  the grant of a franchise under this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.266.  DEPOSIT OF PROCEEDS. (a) The proceeds of the sale of an obligation issued under this chapter may be:

(1)  deposited in one or more banks on which the purchaser of the obligations and the board agree; and

(2)  deposited and paid out under the conditions and other terms to which the purchaser and board agree.

(b)  The statutes of this state relating to the deposit of authority funds in the depository of the authority do not apply to the deposit of the proceeds of the sale of an obligation issued under this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.267.  USE OF UNSPENT PROCEEDS AFTER PROJECT COMPLETION. Any part of the proceeds of the sale of an obligation issued under this chapter that are unspent after the project for which the obligations were authorized is completed may be paid into the sinking fund for the payment of the obligation and may be used only for:

(1)  the payment of the principal of the obligation; or

(2)  the purpose of acquiring outstanding obligations by purchase in the manner provided by this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.268.  INSURING IMPROVEMENTS AND FACILITIES. (a) The board may enter into, under terms to which the board agrees, an agreement with the purchaser of an obligation issued under this chapter to:

(1)  keep all the improvements and facilities, the revenue of which is pledged to the payment of the obligation, insured with insurers of good standing against loss or damage by fire, water or flood, or another hazard that private companies that operate similar property customarily cover by insurance; and

(2)  carry with one or more insurers of good standing the insurance covering the use and occupancy of the property as is customarily carried by private companies that operate similar property.

(b)  The cost of the insurance shall be budgeted as a maintenance and operation expense.

(c)  The insurance shall be carried for the benefit of the holder of the obligation.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.269.  REFUNDING OBLIGATION. (a) The authority may authorize and issue, on terms the board considers advisable, a refunding obligation to provide for the retirement of an outstanding obligation issued by the authority under this chapter. The refunding obligation:

(1)  may be issued for an obligation that is due or to become due; and

(2)  is subject to the provisions of this chapter relating to the issuance of other obligations.

(b)  A refunding obligation may be:

(1)  exchanged for like par amounts of the outstanding obligation; or

(2)  sold, with the proceeds being used to retire the outstanding obligation.

(c)  The refunding obligation must be:

(1)  secured in all respects to the same extent as other obligations issued under this chapter; and

(2)  paid from the same revenue from which the refunded obligation was to be paid.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8501.270.  TAX EXEMPTION. An obligation issued under this chapter is exempt from taxation by this state or by any municipal corporation, county, or other political subdivision or taxing district of this state.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 8501.901.  CHAPTER AS FULL AUTHORITY; OTHER STATUTES NOT APPLICABLE. (a) This chapter, without reference to other statutes of this state, is full authority for the authorization and issuance of an obligation under this chapter and for the accomplishment of all actions authorized by this chapter. No other proceedings are necessary.

(b)  A statute of this state does not apply to a proceeding or other act under this chapter if the statute:

(1)  relates to:

(A)  the authorization or issuance of obligations;

(B)  the operation or maintenance of an improvement or facility;

(C)  the grant of a franchise or permit; or

(D)  the right to an election or referendum petition; or

(2)  in any way impedes or restricts the implementation of the acts authorized under this chapter.

(c)  Notwithstanding Subsections (a) and (b), this section does not prevent another statute from applying to the authority if the legislative intent is that the other statute supersede or operate in conjunction with this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.