



# GCA – THE STATUTE

# **GULF COAST AUTHORITY ACT**

Gulf Coast Authority  
910 Bay Area Boulevard  
Houston, Texas 77058

Chapter 409, Acts of the 61st Legislature of the  
State of Texas, Regular Session, 1969

As Amended By:

Chapter 202, Acts of the 62nd Legislature of the  
State of Texas, Regular Session, 1971  
Chapter 258, Acts of the 63rd Legislature of the  
State of Texas, Regular Session, 1973  
Chapter 466, Acts of the 63rd Legislature of the  
State of Texas, Regular Session, 1973  
Chapter 443, Acts of the 64th Legislature of the  
State of Texas, Regular Session, 1975  
Chapter 630, Acts of the 66th Legislature of the  
State of Texas, Regular Session, 1979  
Chapter 841, Acts of the 66th Legislature of the  
State of Texas, Regular Session, 1979  
Chapter 202, Acts of the 69th Legislature of the  
State of Texas, Regular Session, 1985  
Chapter 209, Acts of the 70th Legislature of the  
State of Texas, Regular Session, 1987  
Chapter 24, Acts of the 71st Legislature of the  
State of Texas, Sixth Called Session, 1990  
Chapter 47, Acts of the 74th Legislature of the  
State of Texas, Regular Session, 1995  
Chapter 48, Acts of the 74th Legislature of the  
State of Texas, Regular Session, 1995  
Chapter 1113, Acts of the 83rd Legislature of the  
State of Texas, Regular Session, 2013  
Chapter 918, Acts of the 85th Legislature of the  
State of Texas, Regular Session, 2017  
Chapter 152, Acts of the 87th Legislature of the  
State of Texas, Regular Session, 2021<sup>1</sup>

(Originally Codified as Article 7621d-2, Vernon's Texas Civil Statutes)<sup>2</sup>

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<sup>1</sup> Tex. H.B. 2390, 87<sup>th</sup> Leg., R.S. (2021)

<sup>2</sup> Compiled by Olson & Olson, LLP.

# GULF COAST AUTHORITY ACT

## SUBCHAPTER 1. GENERAL PROVISIONS

**Sec. 1.01. PURPOSE.** The purpose of this Act is to establish an instrumentality for developing and effectuating for Chambers, Galveston, and Harris Counties a regional water quality management program including provision of waste disposal and water systems and regulation of disposal of wastes.

**Sec. 1.02. FINDINGS AND DECLARATION OF POLICY.** It is hereby found and declared that the quality of waters in Chambers, Galveston, and Harris Counties is materially affected by the disposal of wastes throughout those counties; that regional approaches to studying water pollution in these counties, to planning corrective and preventive measures, to providing coordinated facilities for waste disposal, and to regulating waste disposal would be far more effective than efforts on a county-wide, city-wide, or smaller scale; that solid wastes, as well as other kinds of waste, may impair water quality by seepage, drainage, and otherwise; that creation of the Gulf Coast Authority would advance the established policy of the state to maintain the quality of the waters in the state consistent with the public health and public enjoyment thereof, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; and that impending shortage of water in the district for beneficial uses requires that all reasonable measures be taken to prevent and abate water pollution, and to reclaim polluted water for beneficial uses.

### **Sec. 1.03. DEFINITIONS.**

(a) In this Act, unless the context requires a different definition,

- (1) "Authority" means the Gulf Coast Authority created by this Act.
- (2) "Board" means the board of directors of the authority.
- (3) "Director" means a member of the board.
- (4) "District" means the territory included in the authority.
- (5) "Person" means any individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate or any other entity whatsoever.
- (6) "Commission" means the Texas Water Commission.<sup>3</sup>
- (7) "Rule" includes regulation.
- (8) "Water" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico within the district, and all other bodies of surface water, natural or artificial, inland or

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<sup>3</sup> Now the Texas Commission on Environmental Quality.

coastal, fresh or salt, navigable or non-navigable, that are wholly or partially within the district.

- (9) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.
- (10) "Sewage" means waterborne human or animal waste.
- (11) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system.
- (12) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area.
- (13) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from any type of agricultural activity, including waterborne poisons and insecticides used in agricultural activities.
- (14) "Industrial waste" means waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business.
- (15) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste, that may cause impairment of the quality of the water in the state.
- (16) "Solid waste" means any putrescible or non-putrescible discarded material, including but not limited to garbage and refuse.
- (17) "Water pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that renders the water harmful, detrimental or injurious to humans, animal life, vegetation or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
- (18) "Sewer system" means pipelines, conduits, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.
- (19) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste.
- (20) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

- (21) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.
- (22) "Outside the district" means the area contained in counties adjacent to the district.
- (23) "Water system" means a system of pipelines, conduits, canals, pumping stations, force mains, plants, storage, or other facilities used for the treatment, collection, or distribution of water.<sup>4</sup>

## **SUBCHAPTER 2. ADMINISTRATIVE PROVISIONS**

**Sec. 2.01. CREATION OF AUTHORITY.** There is hereby created, pursuant to Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district to be known as the Gulf Coast Authority, which shall be a governmental agency and body politic and corporate of the State of Texas. A confirmation election shall not be necessary.

**Sec. 2.015. NAME CHANGE.** A reference in law to the Gulf Coast Waste Disposal Authority means the Gulf Coast Authority.

**Sec. 2.02. DESCRIPTION.** The authority's territory consists of the area inside the boundaries of Chambers, Galveston, and Harris Counties. The Legislature declares that all the area included in the district will be benefitted by the exercise of the power conferred by this Act.

### **Sec. 2.03. BOARD.**

- (a) The authority's powers, rights, duties, and functions are exercised by a board of directors.
- (b) The board consists of nine directors.
- (c) From each county within the district, the governor of the State of Texas shall appoint one director.
- (d) From each county within the district, the county commissioners court of that county shall appoint one director.
- (e) From each county within the district, the municipalities waste disposal council of that county, hereinafter created, shall appoint one director.

**Sec. 2.04. QUALIFICATION OF DIRECTORS.** To be qualified to be appointed a director, a person must be a qualified property taxpaying elector of the county from which he is appointed.

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<sup>4</sup> No subparagraph 1.03(b) in original legislation.

**Sec. 2.05. TERMS OF DIRECTORS AND APPOINTMENT PROCEDURES.**

- (a) A director's term of office shall be two years, commencing September 1 of the year of his appointment, except that four directors of the first board shall have one-year terms, in order to obtain staggered terms. When the directors have been appointed, they shall draw lots to determine which have one-year terms.
- (b) Appointments of directors for the first board shall be made promptly after this Act becomes effective.
- (c) There are hereby created: the Municipalities Waste Disposal Council of Chambers County, which shall be composed of the mayors of each and all the incorporated cities and towns the city hall of which is situated within Chambers County; the Municipalities Waste Disposal Council of Galveston County, which shall be composed of the mayors of each and all of the incorporated cities and towns the city hall of which is situated within Galveston County; and the Municipalities Waste Disposal Council of Harris County, which shall be composed of the mayors of each and all of the incorporated cities and towns the city hall of which is situated within Harris County. The sole function of these councils shall be the selection of directors. The temporary chairman of each council shall be the mayor of the county seat. Promptly after this Act becomes effective, each municipalities waste disposal council shall meet at a time and place designated by its temporary chairman after notice of the time and place of that meeting has been mailed by the temporary chairman to each member of the council at least 48 hours prior to the time fixed for the meeting. At that meeting, the council shall elect a chairman, vice-chairman, and secretary, and shall adopt such bylaws relating to the conduct of its affairs as the council shall determine to be necessary.
- (d) When a director's term expires, his successor shall be appointed by the same source and in the same manner as was the director whose term expired.
- (e) When a director's office becomes vacant by death, resignation, or removal, the unexpired terms shall be filled by the same source and in the same manner as was the director whose office has become vacant.
- (f) This subsection shall govern the appointment of directors by municipalities waste disposal councils created and described in Subsection (c) of this Section 2.05. When a director appointed by a municipalities waste disposal council vacates his office whether by expiration of his term or by death, resignation, or removal, the successor director shall be appointed in one of the following manners:
  - (1) if the chairman of a municipalities waste disposal council designates a time and place for a meeting and notice of such meeting has been mailed to each member of the council at least seven days prior to the time fixed for the meeting, a majority of the members of the

council present and at such meeting may appoint a director, whether or not a quorum is present; or

- (2) if the chairman of a municipalities waste disposal council mails a notice recommending the appointment of a specific person to each member of the council by certified or registered mail at least 30 days prior to the date on which such recommendation is to become effective and if the chairman receives within such period of time written responses from at least a majority of the members of the council, which responses consent to and approve the proposed appointment, then the person so recommended shall be considered appointed pursuant to this Act on the expiration of such 30- day period. If a consent is once given by a member of the council, such consent cannot be withdrawn. Such consents shall be in writing, in form satisfactory to the chairman, and acknowledged before an officer of the state authorized to take oaths.

**Sec. 2.06. QUALIFICATION BY DIRECTORS.** To qualify for office, each director must:

- (1) Take the oath of office prescribed by Article 16, Revised Civil Statutes of Texas, 1925<sup>5</sup>;
- (2) Execute a bond in the amount of \$5,000 with a corporate surety authorized to do business in this state conditioned on the faithful performance of his duties; and
- (3) File a copy of his bond with the secretary of state, and with the commissioner court of the county from which he is appointed.

**Sec. 2.07. MEETINGS AND ACTIONS OF THE BOARD.**

- (a) The board shall meet at least once each month, and may meet at any other time provided in its bylaws.
- (b) Except as otherwise provided in this Act, the vote of a majority of directors is required for board action.
- (c) The board shall adopt bylaws at its first meeting or as soon thereafter as possible.

**Sec. 2.08. ORGANIZATION OF BOARD.**

- (a) The board shall elect from its members a chairman, vice chairman, secretary, and other officers it deems necessary. A person who is elected to a board office shall serve for two years in that capacity or until he ceases

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<sup>5</sup> Now Article 16, Section I(d) of the Texas Constitution.

to be a director, if this event occurs within two years. Officers' terms shall commence on September 1.

- (b) At its September meeting each year, the board shall elect officers for the offices to be filled.
- (c) If a vacancy occurs in a board office, the directors at the next monthly meeting shall elect a person to serve until the next September meeting of the board.
- (d) The board's bylaws shall prescribe the powers, duties, and procedures for removal from board office of officers that it elects.

**Sec. 2.09. INTEREST IN CONTRACT.** A director who is financially interested in a contract to be executed by the authority for the purchase of property or the construction of facilities shall disclose that fact to the other directors and may not vote on the acceptance of the contract.

**Sec. 2.10. DIRECTOR'S COMPENSATION.** A director is entitled to receive an allowance of \$100 a day and reimbursement for actual and necessary expenses incurred for each day the director spends:

- (1) Attending meetings of the board; or
- (2) Attending to the business of the authority which is authorized by a resolution of the board.

**Sec. 2.11. GENERAL MANAGER.**

- (a) The board shall employ a general manager for a term and salary set by the board.
- (b) The general manager is the chief executive officer of the authority. Under policies established by the board, he is responsible to the board for
  - (1) Administering the directives of the board;
  - (2) Keeping the authority's records, including minutes of the board's meetings;
  - (3) Coordinating with state, federal, and local agencies;
  - (4) Developing plans and programs for the board's approval;
  - (5) Hiring, supervising, training, and discharging the authority's employees;
  - (6) Contracting for or retaining technical, scientific, legal, fiscal, and other professional services; and
  - (7) Performing any other duties assigned to him by the board.
- (c) The board may discharge the general manager upon a majority vote of all the qualified directors.



**Sec. 2.12. DIRECTORS' AND EMPLOYEES' BONDS.**

- (a) The general manager and each employee of the authority charged with the collection, custody, or payment of any money of the authority shall execute a fidelity bond. The board shall approve the form, amount, and surety of the bond.
- (b) The authority shall pay the premiums on the employees' bonds under this section and the directors' bonds under Section 2.06(2) of this Act.

**Sec. 2.13. PRINCIPAL OFFICE.** The authority shall maintain its principal office inside the district.

**Sec. 2.14. RECORDS.**

- (a) The authority shall keep complete and accurate accounts of its business transactions in accordance with generally accepted methods of accounting.
- (b) The authority shall keep complete and accurate minutes of its meetings.
- (c) The authority shall keep its accounts, contracts, documents, minutes, and other records at its principal office.
- (d) Neither the board nor its employees shall disclose any records that it has relating to trade secrets or economics of operation of industries.
- (e) Except as provided in subsection (d) of this section, the authority shall permit reasonable public inspection of its records during regular business hours.

**Sec. 2.15. SEAL.** The authority shall adopt a seal, the form of which it may alter from time to time.

**Sec. 2.16. SUIT.** The authority may sue and be sued in its corporate name.

**SUBCHAPTER 3. POWERS AND DUTIES**

**Sec. 3.01. GENERAL POWERS AND DUTIES.**

- (a) The authority shall administer and enforce the terms of this Act and shall use its facilities and powers to accomplish the purpose of this Act.
- (b) The authority shall conduct studies and research for the control of water pollution and waste disposal within the district and shall cooperate fully with the commission or its successor in any studies of the commission or its predecessor and utilize the results of those studies.
- (c) The regulatory powers of the authority under this Act extend to every person, as that term is defined in this Act.

- (d) Except as expressly limited by this Act, the authority shall have all powers, rights, and privileges necessary and convenient for accomplishing the purposes of this Act conferred by general law upon any conservation and reclamation district created pursuant to Article XVI, Section 59, of the Texas Constitution.
- (e) Subject only to the authority vested by general law, and particularly Chapters 11, 13, and 26, Water Code, in the commission, the authority is empowered to provide water systems and to control water pollution and waste disposal within the district.
- (f) The powers granted to the authority in this Act are cumulative of all powers granted by other laws, now or hereafter existing, which are by their terms applicable to the authority.
- (g) A development corporation created by the authority under Chapter 501, Local Government Code, may finance:
  - (1) projects described by Subchapter C, Chapter 501, Local Government Code, located inside or outside this state; and
  - (2) qualified improvements as defined by Section 399.002, Local Government Code, located inside or outside this state in the same manner and to the same extent as a municipality or county may do so under Chapter 399 of that code.

### **Sec. 3.02. AUTHORITY RULES.**

- (a) The authority shall adopt and enforce rules reasonably required to effectuate the provisions of this Act, including rules governing procedure and practice before the board.
- (b) In adopting rules, the board shall comply, as appropriate, with the requirements of Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252-13, Vernon's Texas Civil Statutes)<sup>6</sup>.
- (c) The board shall print its rules and furnish copies to any person on his written request.

### **Sec. 3.03. INSPECTIONS AND INVESTIGATIONS.**

- (a) Under the same provisions and restrictions applicable to the quality board<sup>7</sup> or its successor, the authority may enter public or private property for the

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<sup>6</sup> Now Texas Government Code Chapter 2001, the Administrative Procedure Act.

<sup>7</sup> Now the Texas Commission on Environmental Quality.

purpose of inspecting and investigating conditions relating to water quality and waste disposal in the district.

- (b) The authority shall transmit the results of its inspections and investigations to the quality board.<sup>8</sup>

**Sec. 3.04. HEARINGS.** The board may:

- (1) Hold hearings, receive pertinent and relevant proof from any party in interest who appears before the board, compel the attendance of witnesses, make findings of fact and determinations with respect to administering the provisions of this Act or of any orders or rules of the authority; and
- (2) delegate to one or more of its members or to one or more of its employees, the authority to take testimony in any hearing called by the authority, or authorized by the authority to be held, with power to administer oaths, but all orders entered shall be made by and in the name of the authority after its official action and attested to by the proper members of the board of directors.

**Sec. 3.05. PENALTIES.**

- (a) A person who violates a rule, permit, or order of the authority is subject to a civil penalty of not less than \$50 nor more than \$1,000 a day for each violation. The authority may sue to recover the penalty in a district court in the county where the violation occurred. Penalties shall be paid to the authority.
- (b) The authority may sue for injunctive relief in a district court in the county where a violation of its rule, permit, or order occurred or is threatened. In any such suit, the court shall have jurisdiction to grant to the authority, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, after notice and hearing, temporary injunctions, or permanent injunctions.
- (c) The authority may sue for injunctive relief and penalties in the same proceeding.
- (d) The commission is a necessary party to any suit brought under this section.

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<sup>8</sup> Now the Texas Commission on Environmental Quality.

**Sec. 3.06. COURT REVIEW.**

- (a) A person who is adversely affected by a rule, act, or order of the authority may sue the authority in a district court to set aside the rule, act, or order (sic) The suit shall be filed within 60 days after the day on which the rule, act, or order took effect.
- (b) Venue for suits under Subsection (a) of this section is in any county in the district.

**Sec. 3.07. AUTHORITY OF LOCAL GOVERNMENT.**

- (a) Under the same provisions and restrictions as are applicable to the authority, a local government may go in and on public and private property to make inspections to determine compliance with the rules, permits, or orders of the authority. A local government shall transmit the results of its inspections to the authority.
- (b) A local government, upon formal resolution of its governing body, may sue to enforce the provisions of Section 3.05 of this Act and for the penalties and injunctive relief provided therein. The authority is a necessary party to a suit under this subsection. Penalties recovered in such actions shall be paid to the authority.

**Sec. 3.08. WATER QUALITY STANDARDS AND CRITERIA.**

- (a) After public hearing, the authority may prescribe standards and criteria for the waters in the district.
- (b) After the authority has prescribed standards and criteria, it shall forward a copy of the standards and criteria to the commission for approval.
- (c) The commission shall consider the standards and criteria.
- (d) If the commission objects to the standards and criteria in any respect, it shall so notify the authority in writing within 90 days after receiving the proposed standards and criteria, stating the objections and the reasons therefor. The authority shall amend its standards and criteria in light of the commission's timely objections. When the authority has amended the standards and criteria in light of the commission's objections, the commission shall promptly evidence its approval of the amended standards and criteria in writing.
- (e) If the commission does not notify the authority that it objects to the standards and criteria within 90 days after receiving them, they are operative at the end of the 90-day period. If the commission notifies the authority within the 90-day period that it objects to the standards and criteria, they are operative from the date the commission approves them.

**Sec. 3.09. ENFORCEMENT OF STATE WATER STANDARDS.** Upon formal resolution of the board, the authority may sue to impose the penalties and obtain the injunctive relief prescribed in the Act creating the commission.

**Sec. 3.10. MASTER PLAN.**

- (a) The authority shall develop and prepare as needed and from time to time revise comprehensive water quality management and waste disposal control plans for various areas of the district; provided, however, that the plans developed by the authority shall be consistent with the requirements and rules of the commission or its successor.
- (b) Insofar as may be practical, such plans shall be reasonably compatible with other governmental plans for the areas within the district.

**Sec. 3.11. REGULATION OF SOLID WASTE DISPOSAL.**

- (a) The authority may establish minimum standards of operation for all aspects of solid waste handling, including but not limited to storage, collection, incineration, sanitary landfill, or composting. Before establishing such standards, the authority shall:
  - (1) hold public hearings after having given public notice in the time and manner prescribed by the rules of the board;
  - (2) consult with the commission, the Texas Air Control Board<sup>9</sup>; and
  - (3) find that the standards are reasonably necessary for protection of public health or welfare from water pollution or other environmental harm.
- (b) To amend standards, the authority shall follow the same procedures required for establishing standards.
- (c) The authority may make rules reasonably necessary to implement solid waste disposal standards. These rules may include issuance and revocation of permits for operation of solid waste disposal sites and other aspects of solid waste handling.

**Sec. 3.12. SEPTIC TANKS.**

- (a) If it finds that because of the nature of the soil or drainage in the area it is necessary to prevent water pollution that may directly or indirectly injure the public health, the authority by rule may
  - (1) provide limits on the number and kind of septic tanks in any area defined in the rule;

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<sup>9</sup> Now the Texas Commission on Environmental Quality.

- (2) forbid the use of septic tanks in the area; or
- (3) forbid the installation of new septic tanks in the area.
- (b) The board shall consult with the Texas State Department of Health and the commission prior to the adoption of a rule under Subsection (a) of this section.
- (c) The board may provide in the order for a gradual and systematic reduction of the number or kind of septic tanks in the area and may by rule provide for a system of licensing and issuing permits for the installation of new septic tanks in the area affected, in which event no person may install septic tanks in the area without a license or permit from the board.
- (d) The board may not issue a rule under Subsection (a) of this section without first holding a public hearing in the area to be affected by the rule.

**Sec. 3.13. DISPOSAL OF WASTE FROM WATERCRAFT.**

- (a) The authority may enforce within the district the rules of any agency of the State of Texas concerning the disposal of waste from watercraft.
- (b) It also may make and enforce its own rules concerning the disposal of waste from watercraft, after public hearing and finding that such rules are reasonably necessary to minimize water pollution.

**Sec. 3.14. ACQUISITION, CONSTRUCTION, AND OPERATION OF WATER OR DISPOSAL SYSTEMS.**

- (a) The authority:
  - (1) may acquire and provide by purchase, gift or lease any water or disposal systems within or outside the district;
  - (2) may construct and provide water or disposal systems within or outside the district;
  - (3) may operate and sell any water or disposal systems that it constructs or acquires;
  - (4) may contract with any person to operate and maintain, within or outside the district, any water or disposal system belonging to the person; and
  - (5) may contract with any person to train or supervise employees of a water or disposal system within or outside the district.
- (b) Before the authority may discharge effluent, it must obtain the necessary permits from the quality board.
- (c) In taking an action under this section, the authority shall comply with the requirements of Section 3.16A.

**Sec. 3.15. WASTE DISPOSAL CONTRACTS.**

- (a) The authority may contract to receive and treat or dispose of wastes from any person in the district.
- (b) In contracts under Subsection (a) of this section, the authority shall set fees on the basis of
  - (1) the quality of the waste;
  - (2) the quantity of the waste;
  - (3) the difficulty encountered in treating or disposing of the waste;
  - (4) operation and maintenance expenses and debt retirement services;and
  - (5) any other reasonable considerations.

**Sec. 3.16. SALE OF WATER AND BY-PRODUCTS.** The authority may store and sell water that it collects under Sections 3.14 or 3.15 of this Act, and may furnish water of a specified quality. It also may store and sell any by-product from its operations.

**Sec. 3.16A. LIMITATION ON SERVICE AREA.** The authority must obtain the consent of the director of public works of the City of Houston for the acquisition, construction, or operation of a water system that distributes raw or treated water within Austin, Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, or Waller County, other than a water system that distributes effluent, reclaimed water, reuse water, or treated wastewater produced from a waste treatment facility.

**Sec. 3.17. PERMITS FROM TEXAS WATER COMMISSION<sup>10</sup>.**

- (a) For the purpose of maintaining established water quality standards in the bays and estuaries within the district, the authority may apply to the commission for water appropriation permits.
- (b) The authority may apply for water storage or use permits from the commission to store and sell water under the provisions of Section 3.16 of this Act.

**Sec. 3.18. EMINENT DOMAIN.** The authority may acquire property of any kind within or outside the district, appropriate for the exercise of its functions, through the exercise of the power of eminent domain under the provisions of Title 52, Revised Civil Statutes of Texas, 1925, as now or later amended.<sup>11</sup>

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<sup>10</sup> Now the Texas Commission on Environmental Quality.

<sup>11</sup> Now Texas Property Code Chapter 21.

**Sec. 3.19. RELOCATION OF FACILITIES.** In the event that the authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting or changing the grade of or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, rerouting, change in grade or alteration of construction, shall be accomplished at the sole expense of the authority. The term "sole expense" shall mean the actual cost of such relocation, raising, rerouting, change in grade or alteration of grade or construction in providing comparable replacement without any enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

**Sec. 3.20. USE OF PUBLIC EASEMENTS.** The authority shall have the right, power, and Authority to use any and all public roadways, streets, alleys, or public easements within or outside the district in the accomplishment of its purposes, without the necessity of securing a franchise.

**Sec. 3.21. ACQUISITION AND DISPOSITION OF PROPERTY.**

- (a) The authority may purchase, lease, acquire by gift, maintain, use, and operate property of any kind appropriate for the exercise of its functions.
- (b) The board may sell to the highest bidder at a public or private sale or may exchange any property or land owned by the authority which is not required to carry out the plans of the authority. Before either a public or a private sale of property or land not required for the authority's plans, the authority shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district.

**Sec. 3.22. FACILITIES.** The authority may acquire in any lawful manner, construct, extend, improve, maintain, reconstruct, use, and operate any facilities necessary or convenient to the exercise of its powers, rights, duties, and functions.

**Sec. 3.23. CONTRACTS GENERALLY.**

- (a) The authority may make contracts and execute instruments that are necessary or convenient to the exercise of its powers, rights, duties, and functions. A contract may be for any term not to exceed 50 years.
- (b) Any construction or repair contract, or contract for the purchase of material, equipment, or supplies, or any contract for services (other than technical, scientific, legal, fiscal or other professional services) shall be awarded to the lowest and best bidder therefor, after publication of a notice to bidders once each week for three consecutive weeks before the date set for awarding the contract, if the contract will require an estimated expenditure of more than



\$25,000<sup>12</sup>, or if the contract is for a term of more than five years. In the event of an emergency, the authority may let such contracts as are necessary to protect and preserve the public health and welfare or the properties of the authority, without such bidding procedures. Provided that as to construction contracts for industrial wastewater disposal and solid or hazardous disposal projects, where such projects are not being constructed for or to serve a public agency or a local government or where the project is a solid or hazardous waste resource recovery facility to be used for disposal of waste of cities whose ultimate output or product is to be sold to individuals or corporations for amounts substantially sufficient to finance such facility, there shall be no obligation to receive construction bids on such projects and Chapter 163, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes)<sup>13</sup> or any other law requiring competitive bids shall not apply to such projects.

- (c) The notice is sufficient if it states the time and place, when and where the bids will be opened, the general nature of the work to be done, or the material, equipment, or supplies to be purchased, or the nonprofessional services to be rendered, and states the terms upon which copies of the plans, specifications, or other pertinent information may be obtained.
- (d) Publication of the notice shall be in a newspaper having general circulation in the county or counties in which the contract is to be performed. In addition to publishing notice in a newspaper having general circulation, the notice may also be published in any other appropriate publication.
- (e) Anyone desiring to bid on the construction of any work advertised as herein provided, shall, upon written application to the board, be furnished with a copy of the plans and specifications or other engineering and architectural documents showing the work to be done, and all the details thereof, providing that a charge may be made therefor to cover the cost of making such copy. All bids to do any such work shall be in writing, and sealed and delivered to the board, and shall be accompanied by a certified check upon some responsible bank in the State of Texas or a bid bond from a company approved by the board, for at least one percent of the total amount bid, and the amount of said check or bond shall be forfeited to the authority in the event such successful bidder shall fail or refuse to enter into a proper contract therefor, or shall fail or refuse to furnish bond therefor as required by law. Any or all bids may be rejected by the board.
- (f) Bids shall be opened at the place specified in the published notice and shall be announced by the board. The place where the bids are opened and announced shall always be open to the public.
- (g) The contract price of all construction contracts of the authority may be made in partial payment as the work progresses, but such payments shall not

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<sup>12</sup> The authority has elected to adopt the terms and provisions of Chapter 2269 of the Texas Government Code and Chapter 49 (sections 49.271 and 49.273) of the Texas Water Code notwithstanding conflicting provisions of this Act.

<sup>13</sup> Now Texas Local Government Code Chapter 252.

exceed 90 percent of the amount due at the time of such payment as shown by the report of the general manager of the district. The board shall at all times during the progress of the work, inspect the same or cause the same to be inspected by the general manager or his assistants, and upon the completion of any contract in accordance with such terms, they shall pay the balance due thereon.

- (h) The person, firm or corporation to whom such contract is let shall provide such performance and payment bonds as are required by law.
- (i) The provisions of this section do not prohibit the authority from purchasing surplus property from the United States by negotiated contract and without necessity for advertising bids.
- (j) An officer, agent or employee of the authority who is financially interested in a contract of the types enumerated in Subsection (b) of this section shall disclose that fact to the board before the board votes on the acceptance of the contract.
- (k) Notwithstanding any provision of any charter of any city or town, contracts between the authority and any city or town need not be submitted to the electorate.
- (l) Subject to Section 3.16A:
  - (i) The authority and all persons are authorized to enter into contracts with respect to any waste and any waste disposal or treatment facilities, water system facilities, and any other facilities described in this Subsection (l) or any other part of this Act, and the authority is authorized to execute all appropriate documents and instruments in connection therewith; and the authority is authorized to issue bonds with respect to any of its powers, including those powers granted in this Subsection (l), and also for the purpose of providing or funding any debt service reserve fund or other special reserve, contingency, or other fund in connection with bonds, and/or also for the purpose of providing funds to operate any facilities for a period not to exceed three years after completion and to maintain any facilities, and/or to provide funds to pay interest on bonds during such period as is determined by the authority; and
  - (ii) The authority may exercise the powers, duties, and authority defined in the Regional Waste Disposal Act (Chapter 30, Vernon's Texas Water Code), and all of the provisions of the Regional Waste Disposal Act, as it now exists and as it hereafter may be amended, are applicable to the authority, except to the extent of any conflict with this Act, in which case this Act shall prevail over the provisions of the Regional Waste Disposal Act; and the authority may exercise the same rights, powers, and authority with respect to the control, storage, preservation, transmission, treatment, and disposition of water and water systems that it may exercise under this section with regard to waste, waste disposal systems, and treatment facilities; and

- (iii) All persons are authorized to contract with the authority in any manner authorized by this Act or the Regional Waste Disposal Act with respect to any facilities described in this Subsection (l) or any other part of this Act; provided that any public agency or local government additionally is authorized to enter into and execute any such contract with the authority and to determine, agree, and pledge that all or any part of its payments under such contract shall be payable from the source described in Subsection (c) of Section 30.030 of the Regional Waste Disposal Act, subject only to the authorization of such contract, pledge, and payments by a majority vote of the governing body of such public agency or local government. All public agencies and local governments also are authorized to use and pledge any other available revenues or resources whatsoever for and to the payment of amounts due under such contracts as an additional source or sources of payment thereof or as the sole source or sources of payment thereof and may covenant with respect thereto so as to assure the availability thereof when required; and
- (iv) All public agencies and local governments are authorized to fix, charge, and collect fees, rates, charges, rentals, and other amounts for any services or facilities provided pursuant to or in connection with any contract with the authority from its inhabitants or from any users or beneficiaries of such services or facilities, including specifically water charges, sewage charges, solid waste disposal system fees and charges (including garbage collection or handling fees), and other fees and charges and to use and pledge same to make payments to the authority required under the contract and may covenant to do so in amounts sufficient to make all or any part of such payments to the authority when due; and
- (v) This Subsection (l) shall be wholly sufficient authority within itself for the issuance of the bonds, subject to Subchapter 5 of this Act, the execution of the contracts, and the performance of the other acts and procedures authorized herein by the authority and all persons, including specifically public agencies, without reference to any other provisions of law or any restrictions or limitations contained therein, except as herein specifically provided; and in any case, to the extent of any conflict or inconsistency between any provisions of this subsection and any other provision of law (including any home-rule city charter provisions), this subsection shall prevail and control; provided, however, that the authority and all persons, including specifically public agencies, shall have the right to use any other provisions of law not in conflict with the provisions of this subsection to the extent convenient or necessary to carry out any power or Authority, express or implied, granted by this subsection.

- (vi) The authority is expressly made subject to the continuing supervision of the state by and through the commission or its successor and Chapter 50, Water Code.<sup>14</sup>

**Sec. 3.24. COOPERATIVE AGREEMENTS.** The authority may enter into cooperative agreements with other local governments, state agencies, or agencies of the United States of America

- (1) to perform water quality and waste disposal management, inspection, and enforcement functions and give technical aid and education services to any entity that is a party to the agreement; and
- (2) to transfer money or property to any entity that is a party to the cooperative agreement for the purpose of water quality and waste disposal management, inspection, enforcement, and technical aid and education.

#### **SUBCHAPTER 4. GENERAL FISCAL PROVISIONS**

**Sec. 4.01. DISBURSEMENT OF FUNDS.** The authority's money is disbursable only by check, draft, order, or other instrument, signed by the person or persons authorized to do so in the board's bylaws, or by resolution of the board.

**Sec. 4.02. FEES AND CHARGES.** The authority shall establish fees and charges which may not be higher than necessary to fulfill the obligations imposed on it by this Act.

**Sec. 4.03. LOANS AND GRANTS.**

- (a) The authority may borrow money for its corporate purposes.
- (b) The authority may borrow money and accept grants from private sources, the United States of America, the state, and local governments. The authority may enter into any agreement in connection with the loan or grant which is not in conflict with the constitution and laws of this state.
- (c) The sources of any funds accepted by the authority shall be public information, both as to amount and any restrictions placed by the donor on their expenditure.

**Sec. 4.04. FISCAL YEAR AND AUDIT BY STATE AUDITOR.**

- (a) The authority's fiscal year shall be established by the board.
- (b) The board shall keep separate books and accounts of all money received from the State of Texas, and the state auditor shall audit annually such books and

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<sup>14</sup> Now Texas Water Code Chapter 49.

accounts in a manner enabling him to report to the Legislature the manner and purpose of the expenditure of the authority's money received from the state during each fiscal year.

**Sec. 4.05. STATE AUDITOR'S REPORT.**

- (a) The state auditor shall make a report of his audit promptly.
- (b) The state auditor shall file a copy of the report with the governor, the commission, the commissioner court of each county in the district, and as may otherwise be provided by law.

**Sec. 4.06. COST OF STATE AUDITOR'S AUDIT.**

- (a) After completing the report required by Section 4.05 of this Act, the state auditor shall prepare a detailed statement showing the actual cost of the audit and certify the statement to the authority for payment.
- (b) Upon receipt of the statement, the authority shall pay the state treasurer the cost of the audit.
- (c) The state treasurer shall credit the payment to the general revenue fund.

**Sec. 4.07. INDEPENDENT AUDIT.**

- (a) The authority shall keep a complete system of accounts and an audit of its affairs (except as provided in Section 4.04(b) above) for each year shall be prepared by an independent certified public accountant, or a firm of independent certified public accountants, of recognized integrity and ability selected by the board. The cost of said audit shall be paid by the authority.
- (b) The authority shall file copies of the independent audit with the governor of the State of Texas, the commission, and the commissioner court of each county in the district; and the board shall keep at least one copy of such audit at the office of the district open to inspection by any interested person during normal office hours.

**Sec. 4.08. DEPOSITORY BANKS.**

- (a) The board shall designate one or more banks within the district to serve as depository for the funds of the authority. All funds of the authority shall be deposited in such depository bank or banks except that bond proceeds and funds pledged to pay bonds may, to the extent provided in a trust indenture, be deposited with the trustee bank named in the trust indenture, and except that funds shall be remitted to the bank of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository banks or a trustee bank are not invested or insured by the

F.D.I.C. they shall be secured in the manner provided by law for the security of county funds.

- (b) Before designating a depository bank or banks, the board shall issue a notice stating the time and place when and where the board will meet for such purpose and inviting the banks in the district to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. Such notice shall be published one time in a newspaper of general circulation in the district and specified by the board, or, in lieu of such publication, a copy of such notice may be mailed to each bank in the district.
- (c) At the time mentioned in the notice, the board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the authority and which the board finds have proper management and are in condition to warrant handling of Authority funds. Membership on the board of an officer or director of a bank shall not disqualify such bank from being designated as depository.
- (d) If no applications are received by the time stated in the notice, the board shall designate some bank or banks within or outside the district upon such terms and conditions as it may find advantageous to the authority.

## **SUBCHAPTER 5. BOND AND TAX PROVISIONS**

### **Sec. 5.01. BONDS.**

- (a) For the purpose of carrying out any power or Authority conferred by this Act, including the expense of preparing the master plan and the payment of engineering and other expenses in connection therewith, the authority is empowered to issue its bonds in three general classes:
  - (1) bonds secured by ad valorem taxes;
  - (2) bonds secured by a pledge of all or part of the revenues accruing to the authority, including without limitation those received from sale of water or other products, rendition of service, tolls, charges, and from all other sources other than ad valorem taxes;
  - (3) bonds secured by a combination pledge of all or part of the revenues described in Subdivision (2) of this subsection, and taxes.
- (b) Such bonds shall be authorized by resolution of the board and shall be issued in the name of the authority, signed by the chairman or vice-chairman, attested by the secretary and shall bear the seal of the authority. It is provided, however, that the signatures of the chairman, the vice-chairman or of the secretary or of both may be printed or lithographed on the bonds if authorized by the board, and that the seal of the authority may be impressed on the bonds

or may be printed or lithographed thereon. The bonds shall be in such form as shall be prescribed by the board, shall be in such denomination or denominations, shall mature serially or otherwise in not to exceed 50 years from their date, shall bear such interest, and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable, and within the discretion of the board, may be made callable prior to maturity at such times and prices as may be prescribed in the bonds, and may be made registrable as to principal or as to both principal and interest. Such bonds may be further secured by an indenture of trust with a corporate trustee.

- (c) Bonds may be issued in more than one series, and from time to time, as required for carrying out the purposes of this Act. Any pledge of revenues may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with, or be secured by a lien senior to or subordinate to the bonds then being issued.
- (d) The resolution authorizing the bonds or the trust indenture further securing such bonds may specify additional provisions which shall constitute a contract between the authority and its bondholders. The board shall have full discretion in providing for such additional provisions including the authority to provide for a corporate trustee or receiver to take possession of facilities of the authority in the event of default on the part of the authority in fulfilling the covenants therein made.

**Sec. 5.02. REFUNDING BONDS.** The authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund one or more series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this law with reference to the issuance by the authority of other bonds, their security, and their approval by the attorney general and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the comptroller shall register them without concurrent surrender and cancellation of the original bonds.

**Sec. 5.03. APPROVAL AND REGISTRATION OF BONDS.** After any bonds (including refunding bonds) are authorized by the authority, such bonds and the record relating to their issuance shall be submitted to the attorney general for his examination as to the validity thereof. If such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the authority and any city or other governmental agency, authority or district, a copy of such contract and the proceedings

of the city or other governmental agency, authority or district authorizing such contract shall also be submitted to the attorney general. If he finds that such bonds have been authorized and such contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts and the bonds then shall be registered by the comptroller of public accounts. Thereafter the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

**Sec. 5.04. BOND ELECTION.** No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the qualified property tax-paying voters of the district may vote and unless a majority of the votes cast in such election is in favor of the issuance of the bonds. Refunding bonds and bonds not payable wholly or partially from ad valorem taxes may be issued without an election. Such elections shall be held in accordance with the provisions hereinafter set forth governing ad valorem tax elections.

**Sec. 5.05. MAINTENANCE TAX.** The board shall have the power to levy and collect ad valorem taxes for the maintenance of the authority and its improvements, in such amounts as are voted in accordance with the procedure hereinafter set forth; provided that the maintenance tax shall not exceed the maximum rate voted, and said rate shall remain in effect until or unless changed by subsequent vote, and that in no event shall the tax rate exceed the limit specified in Section 5.08 of this Act.

**Sec. 5.06. ELECTION.** No such maintenance tax shall be levied or collected and no bonds payable wholly or partially from ad valorem taxes shall be issued unless an election is held in the district and any such taxes or bonds are duly and favorably voted by a majority of the qualified property tax-paying voters of the district, voting at the election. Each such election shall be called by resolution of the board. The election resolution shall set forth the date of the election, the proposition to be submitted and voted on, the polling places, and any other matters deemed advisable by the board. Notice of said election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper of general circulation in the district not less than twice in such newspaper, with the interval between such publications to be at least one week, and with the first of each of said publications to be at least 60 days prior to the date set for the election. To the extent not inconsistent with the provisions hereof, the elections herein provided for shall be held in accordance with the provisions of the Texas Election Code.

**Sec. 5.07. TAX ASSESSOR AND COLLECTOR.** The tax assessor and collector of each county in which the authority is located shall act as the tax assessor and collector for the authority for property located in such county.

**Sec. 5.08. TAX LIMIT.** The maximum rate of tax which may be levied by the board in any fiscal year for all purposes, other than taxes levied pursuant to Section 6.05, shall not exceed ten cents (10¢) on each \$100 of assessed valuation of taxable property.



**Sec. 5.09. BONDS AUTHORIZED INVESTMENTS.** All bonds and refunding bonds of the authority shall be and are hereby declared to be legal, eligible and authorized investments for banks; savings and loan associations; insurance companies; fiduciaries; trustees; the sinking funds of cities, towns, villages, counties, school districts, or any other political corporations or subdivisions of the State of Texas; and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

## **SUBCHAPTER 6. POLLUTION CONTROL DISTRICTS**

**Sec. 6.01. ESTABLISHMENT OF DISTRICTS.** The authority may establish one or more "Pollution Control Districts" for the purpose of accomplishing any of the powers, purposes, rights, privileges or authority vested in the authority.

### **Sec. 6.02. PROCEDURE FOR ESTABLISHMENT.**

- (a) Pollution Control Districts may be established by the procedures contained in this Section.
  - (1) The board may adopt a resolution calling for the creation of a Pollution Control District, defining the boundaries thereof, estimating the principal amount of and stating the purpose of bonds proposed to be issued by the authority on behalf of the proposed Pollution Control District, declaring that taxes for the payment of the proposed bonded indebtedness shall be levied exclusively upon the taxable property within the proposed Pollution Control District, and fixing a time and place for a public hearing on the matters set out in the resolution; or
  - (2) The board may adopt a resolution calling for the creation of a Pollution Control District, defining the boundaries thereof, declaring that taxes for the maintenance of the authority and its improvements shall be levied upon the taxable property within the proposed Pollution Control District, and fixing a time and place for a public hearing on the matter set out in the resolution.
- (b) The resolutions authorized by Section 6.02(a) may be adopted simultaneously and simultaneous hearings on proposed bond and maintenance taxes may be held.
- (c) The public hearing may be conducted by a quorum of the board of directors, or one or more directors, or one or more employees who may be designated by the board. If someone other than a quorum of the board

conducts the hearing, he shall have power to accept evidence and make recommendations upon which the board may act. The board may alter, modify or change any provision of the resolution calling for the creation of the proposed Pollution Control District subsequent to the public hearing; provided, however, that the boundaries of the Pollution Control District may not be enlarged or expanded without further notice as hereinafter provided.

- (d) Notice of the public hearing shall be published in a newspaper of general circulation within the proposed Pollution Control District once not less than fifteen (15) nor more than thirty (30) days prior to the public hearing. To the extent not inconsistent with the provisions hereof, notice of the public hearing shall also comply with Article 6252-17, Vernon's Texas Civil Statutes, as amended.<sup>15</sup>
- (e) All public hearings on creation of a Pollution Control District shall be held within the boundaries of the proposed Pollution Control District, and may be held concurrently or in connection with any other public hearing, meeting or proceeding conducted by the board.
- (f) Any interested person, including persons residing or owning property within the authority, may appear at the public hearing and present evidence relevant to the matters set forth in the resolution calling for the creation of the proposed Pollution Control District. All persons residing within or owning property within the proposed Pollution Control District shall have the right to appear at the public hearing and present evidence with regard to whether they will receive benefits from the proposed improvements or taxation. Failure to appear at the public hearing shall constitute a waiver of all objections which the absent party might have had to all matters set forth in the resolution calling for the creation of the proposed Pollution Control District.
- (g) The board shall review the findings and recommendations resulting from the public hearing, and may adopt a resolution creating the Pollution Control District, stating the purposes for which the Pollution Control District has been created, designating the boundaries of the Pollution Control District, declaring that the indebtedness to be incurred or the cost of services to be rendered by the authority for the benefit of the Pollution Control District shall be payable from taxes levied upon property within the Pollution Control District, finding that the property within the Pollution Control District will benefit from the indebtedness proposed to be incurred or the services proposed to be rendered by the authority on its behalf, and calling for an election within the Pollution Control District to authorize said indebtedness and/or said maintenance tax. Said resolution shall further state the date of the election, the proposition or propositions to be voted on, the location of the polling places, and the names of the officers of the election. Said election may be held in conjunction with a general election or any special election other than

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<sup>15</sup> Now Texas Government Code Chapter 551.

a primary election. The provisions of the Texas Election Code shall govern the election unless contrary to any provision of this Act.

- (h) The resolution of the board creating a Pollution Control District shall be final and conclusive, and shall not be subject to review by any court except upon the basis of whether the resolution is supported by substantial evidence. Said resolution shall be filed in the deed records of the county or counties wherein the territory within the Pollution Control District is situated. Any action or proceeding wherein the validity of the board's resolution creating a Pollution Control District or of the proceedings relative thereto is contested, questioned or denied, shall be commenced within thirty (30) days from the effective date of the resolution; otherwise, said resolution and all proceedings relative thereto, including the creation of the Pollution Control District, shall be held to be valid and in every respect legal and incontestable.

### **Sec. 6.03. BOUNDARIES AND ADDITION OF TERRITORY.**

- (a) The boundaries of a Pollution Control District may include any territory within the authority, whether or not the territory contains non contiguous parcels of land, and whether or not the territory is located within the boundaries of any incorporated city, town, village, or any other governmental entity or political subdivision of the State of Texas. If any portion of the territory of a proposed Pollution Control District falls within the boundaries or within the exclusive extraterritorial jurisdiction of an incorporated city, town or village, the board shall not create said Pollution Control District until it has obtained the consent of said city, town or village. Said consent may contain such conditions as may be mutually agreed upon by the authority and said city, town or village, and shall be evidenced by a duly enacted ordinance of the governing body of said city, town or village.
- (b) Proceedings for the annexation of territory to an existing Pollution Control District may be initiated by a resolution of the board, or by a petition signed by the owners of 50% or more of the value of the land subject to the proceedings, or by a petition signed by a majority of the residents of the land to be annexed. The petition shall, insofar as is practicable, set forth substantially those matters set forth in a resolution calling for the creation of a Pollution Control District, and shall request a public hearing by the board on the matters set out in the petition. The public hearing shall be held in substantial compliance with the provisions set forth herein for a public hearing on creation of a Pollution Control District. If the board determines that the annexation should be accomplished, it may adopt a resolution calling separate elections on the matter of annexation to be held within the existing Pollution Control District and within the land to be annexed. The annexation shall not become final until approved by a majority of the qualified voters within the existing Pollution Control District, and until a majority of the qualified voters within the boundaries of the land to be annexed approve said

annexation and elect to allow the land to be annexed to be taxed for maintenance purposes and/or to assume its pro rata share of indebtedness theretofore authorized and/or taxes necessary to support the voted but unissued tax or tax-revenue bonds of the authority which are to be issued on behalf of the existing Pollution Control District, and authorize the board to levy a tax on the property therein for payment for such unissued bonds, when issued. Said elections shall conform to the Texas Election Code, insofar as said Code is not inconsistent with the provisions of this Act. The board's resolution canvassing the returns of such elections shall redefine the boundaries of the Pollution Control District and shall be recorded in the deed records of the county within which the annexed territory lies.

- (c) Proceedings for the addition of territory to an existing Pollution Control District on which less than three (3) qualified voters reside may be initiated by a petition signed by the owner or owners thereof praying that the land described therein be added thereto and become a part thereof. The petition shall, insofar as applicable set forth substantially those matters set forth in a resolution calling for the creation of a Pollution Control District and shall request a public hearing by the board on the matters set out in the petition. The public hearing shall be held in substantial compliance with provisions set forth herein for a public hearing on creation of a Pollution Control District. If the board determines that the addition should be accomplished, it may adopt a resolution adding such land. If taxes or bonds have been authorized within the Pollution Control District prior to the addition of said land, said resolution adding the land shall be temporary and the addition shall not become final until approved by a majority of the qualified voters within the Pollution Control District as it exists after said addition. Such election shall be held as soon as practicable after said addition on the proposition of approving said addition, ratifying the unissued tax or tax revenue bonds of the authority which are to be issued on behalf of the Pollution Control District, and to authorize the board to levy a tax on the property within the Pollution Control District as enlarged for payment of said unissued bonds when issued and/or for the maintenance of the authority. Such election shall conform to the Texas Election Code so far as such Code is not inconsistent with the provisions of this Act. The board's resolution canvassing the returns of such election or adding the territory shall redefine the boundaries of the Pollution Control District and shall be recorded in the deed records of the county within which the added territory lies.

#### **Sec. 6.04. TAXATION.**

- (a) If the qualified voters in the elections called pursuant to Section 6.02 and/or Section 6.03 authorize the authority to incur indebtedness for the benefit of a Pollution Control District, the board shall have authority to issue bonds as provided in Subchapter 5 of this Act; provided, however, that taxes levied for

the purpose of making payments of the interest on or principal of said bonds shall be levied only on taxable property within the Pollution Control District.

- (b) Notwithstanding any provision of this Act to the contrary, if the qualified voters in the elections called pursuant to Section 6.02 or Section 6.03 authorize the authority to levy and collect ad valorem taxes for the maintenance of the authority and its improvements, the board shall have authority to levy, assess and collect said maintenance tax as provided in Subchapter 5 of this Act; provided, however, that said maintenance tax shall be levied only on taxable property within the Pollution Control District.

**Sec. 6.05. BONDED INDEBTEDNESS.** The board may incur all such indebtedness as may be necessary to provide all improvements, and the maintenance thereof, requisite to the achievement of the purposes for which any Pollution Control District is organized, and the authority is authorized to levy and collect all such taxes as may be necessary for the payment of the interest thereon and the creation of a sinking fund for the payment thereof, and such taxes shall be a lien upon the property assessed for the payment thereof.

**Sec. 6.06. ANNEXATION BY MUNICIPALITIES.** If any city, town or village which has consented to the creation and boundaries of a Pollution Control District as provided in Section 6.03(a) of this Act thereafter annexes any part or portion of the territory within such Pollution Control District, the agreement referred to in said Section 6.03(a) shall be deemed to provide and include the provisions of Chapter 128, Acts of the 50th Legislature, 1947, as amended (Article 1182c-1, Vernon's Texas Civil Statutes)<sup>16</sup> or Chapter 228, Acts of the 56th Legislature, 1959, as amended (Article 1182c-5, Vernon's Texas Civil Statutes)<sup>17</sup>, as may be applicable to the specific district, and any such annexing city, town or village shall assume all or the proportionate part of physical assets, properties, facilities, intangible assets, bonded indebtedness, liabilities, obligations and any other debts of the Pollution Control District affected by such annexation.

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<sup>16</sup> Now Texas Local Government Code Chapter 43.

<sup>17</sup> Now Texas Local Government Code Chapter 43.