

WATER CODE

TITLE 4. GENERAL LAW DISTRICTS

CHAPTER 54. MUNICIPAL UTILITY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 54.001. DEFINITIONS. In this chapter:

(1) "District" means a municipal utility district operating under this chapter.

(2) "Board" means the board of directors of a district.

(3) "Director" means a member of the board of directors of a district.

(4) "Commission" means the Texas Natural Resource Conservation Commission.

(5) "Executive director" means the executive director of the Texas Natural Resource Conservation Commission.

(6) "Public agency" means any city, the United States, the State of Texas, and any district or authority created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution, including any river authority, or any other political subdivision or governmental agency of the United States or the State of Texas.

(7) "City" means any incorporated city, town, or village of the State of Texas whether operating under general law or under its home-rule charter.

(8) "Extraterritorial jurisdiction" means the extraterritorial jurisdiction of a city as defined in Article I, Chapter 160, Acts of the 58th Legislature, 1963, as amended (Article 970a, Vernon's Texas Civil Statutes).

(9) "Sole expense" means the actual cost of the relocation, raising, rerouting, or changing grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

Added by Acts 1971, 62nd Leg., p. 774, ch. 84, Sec. 1. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, Sec. 1, eff. June 10, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.140, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.077, eff. Aug. 12, 1991.

SUBCHAPTER B. CREATION OR EXPANSION OF DISTRICT; CONVERSION OF DISTRICT

Sec. 54.011. CREATION OF DISTRICT. A municipal utility district may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution.

Added by Acts 1971, 62nd Leg., p. 774, ch. 84, Sec. 1.

Sec. 54.012. PURPOSES OF A DISTRICT. A district shall be created for the following purposes:

(1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;

(2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of its overflowed land and other land needing drainage;

(4) the conservation and development of its forests, water, and hydroelectric power;

(5) the navigation of its inland and coastal water;

(6) the control, abatement, and change of any shortage or harmful excess of water;

(7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and

(8) the preservation of all natural resources of the state.

Added by Acts 1971, 62nd Leg., p. 775, ch. 84, Sec. 1.

Sec. 54.013. COMPOSITION OF DISTRICT. (a) A district may include the area in all or part of any county or counties including all or part of any cities and other public agencies.

(b) The land composing a district need not be in one body, but may consist of separate bodies of land separated by land which is not included in the district.

Added by Acts 1971, 62nd Leg., p. 775, ch. 84, Sec. 1.

Sec. 54.014. PETITION. When it is proposed to create a district, a petition requesting creation shall be filed with the commission. The petition shall be signed by a majority in value of the holders of title of

the land within the proposed district, as indicated by the tax rolls of the central appraisal district.

Added by Acts 1971, 62nd Leg., p. 775, ch. 84, Sec. 1. Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 29, eff. June 17, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 761 (S.B. 1987), Sec. 5, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 965 (S.B. 2014), Sec. 4, eff. September 1, 2017.

Sec. 54.015. CONTENTS OF PETITION. The petition shall:

(1) describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;

(2) state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition; and

(3) include a name of the district which shall be generally descriptive of the locale of the district followed by the words Municipal Utility District, or if a district is located within one county, it may be designated "_____ County Municipal Utility District No. _____." (Insert the name of the county and proper consecutive number.) The proposed district shall not have the same name as any other district in the same county.

Added by Acts 1971, 62nd Leg., p. 775, ch. 84, Sec. 1.

Sec. 54.016. CONSENT OF CITY.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 761 (S.B. 1987), Sec. 6

(a) No land within the corporate limits of a city or within the extraterritorial jurisdiction of a city, shall be included in a district unless the city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district in accordance with Section 42.042, Local Government Code, and this section. The request to a city for its written consent to the creation of a district, shall be signed by a majority in value of the holders of title of the land within the proposed

district as indicated by the county tax rolls. A petition for the written consent of a city to the inclusion of land within a district shall describe the boundaries of the land to be included in the district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, and state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition. If, at the time a petition is filed with a city for creation of a district, the district proposes to connect to a city's water or sewer system or proposes to contract with a regional water and wastewater provider which has been designated as such by the commission as of the date such petition is filed, to which the city has made a capital contribution for the water and wastewater facilities serving the area, the proposed district shall be designated as a "city service district." If such proposed district does not meet the criteria for a city service district at the time the petition seeking creation is filed, such district shall be designated as a "noncity service district." The city's consent shall not place any restrictions or conditions on the creation of a noncity service district as defined by Chapter 54 of the Texas Water Code other than those expressly provided in Subsection (e) of this section and shall specifically not limit the amounts of the district's bonds. A city may not require annexation as a consent to creation of any district. A city shall not refuse to approve a district bond issue for any reason except that the district is not in compliance with valid consent requirements applicable to the district. If a city grants its written consent without the concurrence of the applicant to the creation of a noncity service district containing conditions or restrictions that the petitioning land owner or owners reasonably believe exceed the city's powers, such land owner or owners may petition the commission to create the district and to modify the conditions and restrictions of the city's consent. The commission may declare any provision of the consent to be null and void.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 965 (S.B. 2014), Sec. 5

(a) No land within the corporate limits of a city or within the extraterritorial jurisdiction of a city, shall be included in a district unless the city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district in accordance with Section 42.042, Local Government Code, and this section. The request to a city for

its written consent to the creation of a district, shall be signed by a majority in value of the holders of title of the land within the proposed district as indicated by the county tax rolls. A petition for the written consent of a city to the inclusion of land within a district shall describe the boundaries of the land to be included in the district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, and state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition. If, at the time a petition is filed with a city for creation of a district, the district proposes to connect to a city's water or sewer system or proposes to contract with a regional water and wastewater provider which has been designated as such by the commission as of the date such petition is filed, to which the city has made a capital contribution for the water and wastewater facilities serving the area, the proposed district shall be designated as a "city service district." If such proposed district does not meet the criteria for a city service district at the time the petition seeking creation is filed, such district shall be designated as a "noncity service district." The city's consent shall not place any restrictions or conditions on the creation of a noncity service district as defined by this chapter other than those expressly provided in Subsection (e) of this section and shall specifically not limit the amounts of the district's bonds. A city may not require annexation as a consent to creation of any district. A city shall not refuse to approve a district bond issue for any reason except that the district is not in compliance with valid consent requirements applicable to the district. If a city grants its written consent without the concurrence of the applicant to the creation of a noncity service district containing conditions or restrictions that the petitioning land owner or owners reasonably believe exceed the city's powers, such land owner or owners may petition the commission to create the district and to modify the conditions and restrictions of the city's consent. The commission may declare any provision of the consent to be null and void. The commission may approve the creation of a district that includes any portion of the land covered by the city's consent to creation of the district. The legislature may create and may validate the creation of a district that includes any portion of the land covered by the city's consent to the creation of the district.

(b) If the governing body of a city fails or refuses to grant permission for the inclusion of land within its extraterritorial jurisdiction in a district, including a district created by a special act of the legislature, within 90 days after receipt of a written request, a

majority of the electors in the area proposed to be included in the district or the owner or owners of 50 percent or more of the land to be included may petition the governing body of the city and request the city to make available to the land the water or sanitary sewer service contemplated to be provided by the district.

(c) If the governing body of the city and a majority of the electors or the owner or owners of 50 percent or more of the land to be included in the district fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within 120 days after receipt of the petition, the failure shall constitute authorization for the inclusion of the land in the district under the provisions of this section. Authorization for the inclusion of such land within the district under the provisions of this section shall mean only authorization to initiate proceedings to include the land within the district as otherwise provided by this Act.

(d) The provisions of this section relating to the method of including land in a district without securing the written consent of a city applies only to land within the extraterritorial jurisdiction of a city and does not apply to land within the corporate limits of a city. If the city fails or refuses to grant permission for the inclusion of land in a district or to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within the time limits contained within Subsection (b) or (c) of this section, the applicant may petition the commission for creation of the district or inclusion of the land in a district. The commission shall allow creation or inclusion of the land in a proposed district upon a finding that the city either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. The commitment shall provide that construction of the facilities necessary to serve the land shall be commenced within two years, and shall be substantially complete within four and one-half years from the date the petition was filed with the city. Upon any appeal taken to the district court from the commission ruling, all parties to the commission hearing shall be made parties to the appeal. The court shall hear the case within 120 days from the date the appeal is filed. If the case is continued or appealed to a higher court beyond such 120-day period, the court shall require the appealing party in the case of appeal to a higher court or party requesting such continuance to post a bond or other adequate security in the amount of damages that may be incurred by any party as a

result of such appeal or delay from the commission action. The amount of the bond or other security shall be determined by the court after notice and hearing. Upon final disposition, a court may award damages, including any damages for delays, attorney's fees, and costs of court to the prevailing party. Under no circumstances shall land within the corporate limits of a city be included in a district without the written consent, by ordinance or resolution, of the city. The provisions of this section shall apply whether the land is proposed to be included in the district at the time of creation of a district or to be included by annexation to a district. A district shall not allow the owner of a tract to connect to the district's water or wastewater system unless such tract is a legally subdivided lot which is part of a recorded subdivision plat or is otherwise legally exempt from the subdivision requirements of the applicable governmental authority.

(e) A city may provide in its written consent to the inclusion of land in a district, that the district construct all facilities to serve the land in accordance with plans and specifications which have been approved by the city. The city may also provide in its written consent that the city shall have the right to inspect all facilities being constructed by a district. The city's consent to the inclusion of land in the district may also contain restrictions on the terms and provisions of the district's bonds and notes issued to provide service to the land and conditions on the sale of the district's bonds and notes if the restrictions and conditions do not generally render the bonds and notes of districts in the city's extraterritorial jurisdiction unmarketable. The city's consent to the inclusion of land in a district may restrict the purposes for which a district may issue bonds to the purposes of the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

(1) provide a water supply for municipal uses, domestic uses and commercial purposes;

(2) collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state; and

(3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the district and the payment of organization expenses, operation expenses during construction and interest during construction.

(f) A city may provide in its written consent for the inclusion of land in a district that is initially located wholly or partly outside the

corporate limits of the city that a contract ("allocation agreement") between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district. The allocation agreement shall contain the following provisions:

- (1) a method by which the district shall continue to exist following the annexation of all territory within the district by the city, if the district is located outside the corporate limits of the city at the time the creation of the district is approved by the district's voters;
- (2) an allocation of the taxes or revenues of the district or the city which will assure that, following the date of the inclusion of all the district's territory within the corporate limits of the city, the total annual ad valorem taxes collected by the city and the district from taxable property within the district does not exceed an amount greater than the city's ad valorem tax upon such property;
- (3) an allocation of governmental services to be provided by the city or the district following the date of the inclusion of all of the district's territory within the corporate limits of the city; and
- (4) such other terms and conditions as may be deemed appropriate by the city.

(g) In addition to all the rights and remedies provided by the laws of the state in the event a district violates the terms and provisions of a city's written consent, the city shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the district and its officials to observe and comply with the terms and provisions prescribed in the city's written consent to the inclusion of land within the district.

(h) A city, other than a city with a population of more than one million that is located primarily in a county with a population of two million or more, may provide in its written consent for the inclusion of land in a district that after annexation the city may set rates for water and/or sewer services for property that was within the territorial boundary of such district at the time of annexation, which rates may vary from those for other properties within the city for the purpose of wholly or partially compensating the city for the assumption of obligation under this code providing that:

- (1) such written consent contains a contract entered into by the city and the persons petitioning for creation of the district setting forth the time and/or the conditions of annexation by the city which annexation shall not occur prior to the installation of 90 percent of the facilities for which district bonds were authorized in the written consent; and that

(2) the contract sets forth the basis on which rates are to be charged for water and/or sewer services following annexation and the length of time they may vary from those rates charged elsewhere in the city; and that

(3) the contract may set forth the time, conditions, or lands to be annexed by the district; and that

(4) (A) Each purchaser of land within a district which has entered into a contract with a city concerning water and/or sewer rates as set forth herein shall be furnished by the seller at or prior to the final closing of the sale and purchase with a separate written notice, executed and acknowledged by the seller, which shall contain the following information:

(i) the basis on which the monthly water and/or sewer rate is to be charged under the contract stated as a percentage of the water and/or sewer rates of the city;

(ii) the length of time such rates will be in effect;

(iii) the time and/or conditions of annexation by the city implementing such rates.

The provisions of Sections 49.452(g)-(p) and (s), Water Code, are herein incorporated by reference thereto, and are applicable to the separate written notice required by Section 54.016(h) (4).

A suit for damages under the provisions of these referenced sections must be brought within 90 days after the purchaser receives his or her first water and/or sewer service charge following annexation, or the purchaser loses his or her right to seek damages under this referenced section.

(B) The governing board of any district covered by the provisions of this subsection shall file with the county clerk in each of the counties in which all or part of the district is located a duly affirmed and acknowledged statement which includes the information required in Section 54.016(h) (4) (A) and a complete and accurate map or plat showing the boundaries of the district.

The provisions of Sections 49.455(c)-(j), Water Code, are herein incorporated by reference thereto.

(i) This subsection applies only to a city with a population of 500,000 or more located in a county with a population of 1.4 million or more in which two or more cities or towns with a population of 300,000 or more are predominately located. A city may provide in its written consent to the inclusion of land in a district that a district water facility that

serves land developed and subdivided into lots of less than one acre must meet the fire flow requirements to which the city is subject.

(j) A city may supplement its written consent in settlement of a water rate dispute with a district, and the terms of the supplement remain in effect after expiration of the written consent unless the city and the district agree otherwise.

Added by Acts 1971, 62nd Leg., p. 775, ch. 84, Sec. 1. Amended by Acts 1975, 64th Leg., p. 247, ch. 98, Sec. 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 2026, ch. 796, Sec. 1, 4, eff. Aug. 27, 1979; Acts 1987, 70th Leg., ch. 1077, Sec. 9, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1, Sec. 3(m), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 11.326, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 669, Sec. 147, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1098 (H.B. [3378](#)), Sec. 2, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 183, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. [902](#)), Sec. 28, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 761 (S.B. [1987](#)), Sec. 6, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 965 (S.B. [2014](#)), Sec. 5, eff. September 1, 2017.

Sec. 54.0161. REVIEW OF CREATION BY COUNTY. (a) This section applies only to a proposed district all of which is to be located outside the corporate limits of a municipality.

(a-1) Promptly after a petition is filed with the commission to create a district to which this section applies, the commission shall notify the commissioners court of any county in which the proposed district is to be located.

(a-2) The commissioners court of a county in which the district is to be located may review the petition for creation and other evidence and information relating to the proposed district that the commissioners consider necessary. Petitioners for the creation of a district shall submit to the county commissioners court any relevant information requested by the commissioners court.

(b) In the event the county commissioners court votes to submit information to the commission or to make a recommendation regarding the creation of the proposed district, the commissioners court shall submit to the commission, at least 10 days before the date set for action on the petition, a written opinion stating:

(1) whether the commissioners court recommends the creation of the proposed district; and

(2) any findings, conclusions, and other information that the commissioners court thinks would assist the commission in making a final determination on the petition.

(c) In passing on a petition subject to this section, the commission shall consider the written opinion submitted by the county commissioners court.

Added by Acts 1975, 64th Leg., p. 1293, ch. 485, Sec. 1, eff. Sept. 1, 1975.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 645 (H.B. 738), Sec. 1, eff. September 1, 2013.

Sec. 54.0162. OPTION OF SELECTION BY DISTRICT COMPOSED OF NONCONTIGUOUS AREAS LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF TWO MUNICIPALITIES. (a) A municipal utility district composed of noncontiguous areas that on January 1, 1995, are contained in the extraterritorial jurisdiction of two municipalities may choose, by a resolution of the governing body of the district, to be wholly contained in the extraterritorial jurisdiction of one municipality selected by the governing body of the district if:

(1) both the municipality selected by the district and all parts of the district are located in the same county;

(2) a majority of the area of the municipality not selected by the district is in a county other than the county in which the district is located, and neither county has a population greater than 3.3 million;

(3) the boundary of the municipality selected by the district is located not more than two miles from any part of the district;

(4) the noncontiguous areas of the district are not, at their closest point, more than two miles apart;

(5) the district is within a water control and improvement district; and

(6) a certified copy of the resolution of the governing body of the district is filed with both municipalities before the effective date specified in the resolution.

(b) If a municipal utility district selects a municipality under Subsection (a), another municipal utility district that has a boundary contiguous to the district that has selected a municipality under Subsection (a) and has a boundary contiguous to the selected municipality may choose by resolution of the governing body of the municipal utility district to be contained wholly in the extraterritorial jurisdiction of the selected municipality. A copy of the resolution must be filed in the same manner as required by Subsection (a)(6).

(c) The governing body of a municipality not selected under the provisions of Subsection (a) or (b) shall release the area of the municipal utility district from the municipality's extraterritorial jurisdiction on the effective date of the resolution presented to the governing body of the municipality under Subsection (a) or (b). The released area becomes part of the extraterritorial jurisdiction of the selected municipality. The released area is not subject to any ordinance of the municipality not selected by the district.

(d) This section controls over any other law relating to the creation, application, or operation of the extraterritorial jurisdiction of a municipality.

(e) The provisions of this section also apply to a municipal utility district that:

- (1) was created before 1980;
- (2) has an area of 700 acres or less; and
- (3) is located, in part, within the extraterritorial jurisdiction of two or more municipalities and, in part, outside municipal extraterritorial jurisdiction in the unincorporated area of a county.

(f) A municipal utility district acting under Subsection (e) shall comply with the notification and selection requirements of this section. A municipality affected by the decision of a municipal utility district acting under Subsection (e) shall comply with the requirements of Subsections (b) and (c).

(g) A municipal utility district described by Subsection (e) shall notify the affected municipality within 30 calendar days of notice of intent to annex by that municipality.

Added by Acts 1995, 74th Leg., ch. 784, Sec. 1, eff. June 16, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 184, eff. September 1, 2011.

Sec. 54.0163. OPTION OF SELECTION OF EXTRATERRITORIAL JURISDICTION FOR CERTAIN DISTRICTS. (a) The board of a district that is located in the extraterritorial jurisdictions of more than one municipality by resolution may select the municipality that may exercise authority within the district as a whole. The resolution must state the effective date.

(b) As soon as practicable, the board shall file with each affected municipality and in the real property records of each county in which the district is located a certified copy of the resolution.

(c) On the effective date of the resolution, the district is contained wholly in the extraterritorial jurisdiction of the municipality selected by the resolution for all purposes. No action or approval by a municipality not selected is required.

(d) A board that has made a selection of extraterritorial jurisdiction under Section 54.0162 may confirm the selection by the adoption of a resolution under this section. If the selection under Section 54.0162 is confirmed under this subsection, the selection is effective from the date of the original selection.

(e) Repealed by Acts 2003, 78th Leg., ch. 248, Sec. 57.

Added by Acts 1997, 75th Leg., ch. 1188, Sec. 1, eff. June 20, 1997.

Amended by Acts 2003, 78th Leg., ch. 248, Sec. 57(1), eff. June 18, 2003.

Sec. 54.0165. ADDITION TO DISTRICT OF LAND IN EXTRATERRITORIAL JURISDICTION OF MUNICIPALITY. (a) A district may not add land that is located in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this subsection and Section 54.016. In giving its consent, the municipality may not place any conditions or other restrictions on the expansion of the political subdivision other than those expressly permitted by Section 54.016(e).

(b) The procedures under Section 54.016 governing a municipality's refusal to consent to the creation of a district apply to a municipality that refuses to consent to the addition of land to a district under this section.

(c) An owner of land in the area proposed to be added to the district may not unreasonably refuse to enter into a contract for water or sanitary sewer services with the municipality under Section 54.016(c).

Added by Acts 2007, 80th Leg., R.S., Ch. 703 (H.B. 2091), Sec. 4, eff. June 15, 2007.

Sec. 54.018. NOTICE AND HEARING ON DISTRICT CREATION. If a petition is filed under Section 54.014, the commission shall give notice of an application as required by Section 49.011 and may conduct a hearing on the application if the commission determines that a hearing is necessary under Section 49.011.

Added by Acts 1971, 62nd Leg., p. 777, ch. 84, Sec. 1. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 27, eff. Sept. 1, 1997.

Sec. 54.020. HEARING. (a) If the commission determines that a hearing is necessary under Section 49.011, the commission shall conduct a hearing and accept evidence on the sufficiency of the petition and whether the project is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

(b) The commission shall have jurisdiction to determine all issues on the sufficiency of the petition and creation of the district.

(c) The hearing may be adjourned from day to day, and the commission shall have power to make all incidental orders necessary with respect to the matters before it.

Added by Acts 1971, 62nd Leg., p. 778, ch. 84, Sec. 1. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 28, eff. Sept. 1, 1997.

Sec. 54.021. GRANTING OR REFUSING PETITION. (a) If the commission finds that the petition conforms to the requirements of Section 54.015 and that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district, the commission shall so find by its order and grant the petition.

(b) In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:

(1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;

(2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and

(3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:

- (A) land elevation;
- (B) subsidence;
- (C) groundwater level within the region;
- (D) recharge capability of a groundwater source;
- (E) natural run-off rates and drainage;
- (F) water quality; and
- (G) total tax assessments on all land located within a

district.

(c) If the commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, the commission shall so find and exclude all land which is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.

(d) If the commission finds that the petition does not conform to the requirements of Section 54.015 of this code or that the project is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall so find by its order and deny the petition.

(e) A copy of the order of the commission granting or denying a petition shall be mailed to each city having extraterritorial jurisdiction in the county or counties in which the district is located who requested a hearing under Section 49.011.

Added by Acts 1971, 62nd Leg., p. 778, ch. 84, Sec. 1. Amended by Acts 1975, 64th Leg., p. 1292, ch. 484, Sec. 1, eff. Sept. 1, 1975; Acts 1997, 75th Leg., ch. 1070, Sec. 29, eff. Sept. 1, 1997.

Sec. 54.022. TEMPORARY DIRECTORS. If the commission grants the petition, it shall appoint five temporary directors to serve until permanent directors are elected.

Added by Acts 1971, 62nd Leg., p. 778, ch. 84, Sec. 1.

Sec. 54.023. APPEAL FROM THE ORDER OF THE COMMISSION. Any person who signed the petition, any city, or any person who appeared in person or by attorney or agent and offered testimony for or against the creation of the district, may appeal from the order of the commission granting or refusing the petition within 30 days after the entry of the order.

Added by Acts 1971, 62nd Leg., p. 778, ch. 84, Sec. 1.

Sec. 54.024. SUPERVISION BY COMMISSION. The rights, powers, privileges, authority, and functions conferred on a district by granting of a petition for creation shall be subject to the continuing right of supervision of the state to be exercised by and through the commission.

Added by Acts 1971, 62nd Leg., p. 778, ch. 84, Sec. 1. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, Sec. 1, eff. June 10, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.142, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 11.328, eff. Sept. 1, 1995.

Sec. 54.025. QUALIFICATION OF TEMPORARY DIRECTORS. After a district has been organized, each temporary director shall execute a bond in accordance with the provisions of Section 49.055 and shall take the oath of office, and the board shall meet and organize.

Added by Acts 1971, 62nd Leg., p. 778, ch. 84, Sec. 1. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 16, eff. Sept. 1, 1995.

Sec. 54.030. CONVERSION OF CERTAIN DISTRICTS INTO DISTRICTS OPERATING UNDER THIS CHAPTER. (a) Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district, or any other conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, may be converted to a district operating under this chapter.

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that in its judgment, conversion into a municipal utility district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district. The resolution shall also request the commission to hold a hearing on the question of the conversion of the district.

(c) A copy of the resolution shall be filed with the commission.

Added by Acts 1971, 62nd Leg., p. 779, ch. 84, Sec. 1. Amended by Acts 1983, 68th Leg., p. 368, ch. 81, Sec. 9(e), eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 399, Sec. 3, eff. Sept. 1, 1987.

Sec. 54.031. ESTABLISHING DATE FOR HEARING. When the resolution requesting conversion is filed, the commission, or someone authorized by the commission, shall fix a date, time, and place when the conversion hearing will be held.

Added by Acts 1971, 62nd Leg., p. 780, ch. 84, Sec. 1.

Sec. 54.032. CONVERSION OF DISTRICT: NOTICE. (a) Notice of the conversion hearing shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication to be made not less than 14 full days before the time set for the hearing.

(c) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the resolution adopted by the district in full; and
- (3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution.

Added by Acts 1971, 62nd Leg., p. 780, ch. 84, Sec. 1.

Sec. 54.033. CONVERSION OF DISTRICT; FINDINGS. (a) After a hearing, if the commission finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding and the district shall become a district operating under this chapter and no confirmation election shall be required.

(b) If the commission finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the commission entered under this section shall be subject to appeal or review within 30 days after entry of the order of the commission granting or denying the conversion.

(d) A copy of the commission order converting a district shall be filed in the deed records of the county or counties in which the district is located.

Added by Acts 1971, 62nd Leg., p. 780, ch. 84, Sec. 1. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, Sec. 23, eff. June 10, 1981.

Sec. 54.034. EFFECT OF CONVERSION. A district which is converted into a district operating under this chapter shall:

- (1) be constituted a municipal utility district operating under and governed by this chapter;
- (2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and
- (3) have and may exercise all the powers, authority, functions, duties, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter.

Added by Acts 1971, 62nd Leg., p. 780, ch. 84, Sec. 1.

Sec. 54.035. RESERVATION OF CERTAIN POWERS FOR CONVERTED DISTRICTS.

(a) Any district after converting into a municipal utility district may continue to exercise all necessary specific powers under any specific conditions provided by the chapter of this code under which the district was operating before conversion and may retain its original name.

(b) Any district converted into a municipal utility district shall continue to have the power to issue bonds voted before the conversion but yet unissued and levy and collect maintenance taxes, bond taxes, or other taxes which were voted before the conversion.

(c) At the time of making the order of conversion, the commission shall specify in the order the specific provisions of this code under which the district had been operating which are to be preserved and made applicable to the operations of the district after conversion into a district operating under this chapter and whether a new name will be assigned to the district or the old name retained.

(d) A reservation of a former power under Subsection (a) of this section may be made only if this chapter does not make specific provision concerning a matter necessary to the effectual operation of the converted district.

(e) In all cases in which this chapter does make specific provision, this chapter shall, after conversion, control the operations and procedure of the converted district.

Added by Acts 1971, 62nd Leg., p. 781, ch. 84, Sec. 1.

Sec. 54.036. DIRECTORS TO CONTINUE SERVING. The existing board of a district converted to a municipal utility district under the provisions of this chapter shall continue to serve as the board of the converted district.

Added by Acts 1971, 62nd Leg., p. 781, ch. 84, Sec. 1. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, Sec. 1, eff. June 10, 1981; Acts 1983, 68th Leg., p. 1105, ch. 250, Sec. 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5214, ch. 951, Sec. 6, eff. Jan. 1, 1984; Acts 1995, 74th Leg., ch. 715, Sec. 17, eff. Sept. 1, 1995.

Sec. 54.037. REGIONAL PLAN IMPLEMENTATION AGENCIES. (a) This section applies only to regional plan implementation agencies, referred to in this section as agency, created as provided below. An agency may only be created in connection with regional planning efforts, and only then when requested by a city. The purpose of this section is to encourage and promote regional planning by cities and to facilitate the implementation of areawide, systematic solutions to water, waste disposal, drainage, and other problems.

(b) The creation of an agency requires that a special petition be filed with the commission. The special petition shall:

(1) describe the boundaries of the proposed agency by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;

(2) describe the regional planning efforts which are in progress or completed as of the date of the petition and the anticipated role of the proposed agency in connection with the implementation of the regional plan;

(3) include a name of the proposed agency, which must be generally descriptive of the locale followed by the words "regional plan implementation agency" and must be different from the name of any other agency in the same county;

(4) be signed by or on behalf of the owner or owners of the fee simple title to 50 percent or more of the surface of the land within the boundaries of the proposed agency, as of the date of the petition, as indicated by the county tax rolls or other title data acceptable to the commission;

(5) be approved by the governing body of each city having extraterritorial jurisdiction over land within the boundaries of the proposed agency as of the date of the petition, by motion, resolution, or ordinance which certifies that:

(A) the regional planning efforts described in the petition are approved by the city;

(B) in the opinion of the governing body, the creation of the proposed agency would assist in the implementation of such regional plan; and

(C) the city requests and consents to the creation of the proposed agency; and

(6) be endorsed by an officer of each such city to indicate that the petition has been so approved by the governing body.

(c) The application fee for such a special petition is the same as for any ordinary district. After the petition is filed, the standards and procedures for commission review and action are the same as for any ordinary district, except that:

(1) the commission must consider the scope of the regional plan in connection with its findings; and

(2) the requirements for the special petition, above, shall apply in lieu of the requirements for ordinary districts set out in Section 54.014, 54.015, 54.016, or other sections of this code.

(d) The application of an agency for approval of a bond issue must include an agreement between the agency and each city having extraterritorial jurisdiction over land within the agency as of the date of the application. The agreement must identify those facilities which are proposed to be financed from the proceeds of the bond issue in question. It must also identify which of those facilities are part of the regional plan and which are not part of the plan. Those which are part of the regional plan:

(1) may be larger than would otherwise be necessary to serve just the needs of the agency; and

(2) may be constructed by, conveyed to, or otherwise acquired by the city, subject to the terms of such agreement. Those facilities which are not part of the regional plan and are to be financed by the agency must be agreed upon by the city and the agency as being consistent with the regional plan.

(e) An agency may acquire any land, easements, or other property, real or personal, within or without the agency, for any purpose or function permitted to a district and may elect to condemn either the fee simple title or an easement only. Section 54.212(a) of this code does not apply to an agency. If the mode and manner for condemnation of any type of property is not otherwise prescribed by law, the Texas Water Development Board may prescribe the same by rule.

(f) An agency is a district subject to all provisions of this chapter and other laws relating to districts, except that the special provisions of this section shall take precedence over differing or conflicting provisions elsewhere.

(g) Nothing in this Act waives the requirements of this chapter or other applicable laws relating to voter approval of bond issues.

Added by Acts 1985, 69th Leg., ch. 939, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 1987, 70th Leg., ch. 399, Sec. 4, eff. Sept. 1, 1987.

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 54.101. BOARD OF DIRECTORS. A district shall be governed by a board of five directors.

Added by Acts 1971, 62nd Leg., p. 781, ch. 84, Sec. 1.

Sec. 54.102. QUALIFICATIONS FOR DIRECTORS. To be qualified to serve as a director, a person shall be at least 18 years old, a resident citizen of the State of Texas, and either own land subject to taxation in the district or be a qualified voter within the district.

Added by Acts 1971, 62nd Leg., p. 781, ch. 84, Sec. 1. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 30, eff. Sept. 1, 1997.

Sec. 54.103. LIMITATION ON FILLING VACANCIES. A board may not appoint a person to fill a vacancy on the board if the person:

(1) resigned from the board:

(A) in the two years preceding the vacancy date; or

(B) on or after the vacancy date but before the vacancy is filled; or

(2) was defeated in a directors election held by the district in the two years preceding the vacancy date.

Added by Acts 2005, 79th Leg., Ch. 33 (S.B. 693), Sec. 1, eff. May 9, 2005.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 54.201. POWERS. (a) A district shall have the functions, powers, authority, rights, and duties which will permit accomplishment of the purposes for which it was created.

(b) A district is authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes of the district authorized by the constitution, this code, or other law, including all works, improvements, facilities, plants, equipment, and appliances incident, helpful, or necessary to:

(1) supply water for municipal uses, domestic uses, power, and commercial purposes and all other beneficial uses or controls;

(2) collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state;

(3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in a district;

(4) irrigate the land in a district;

(5) alter land elevation in a district where it is needed;

(6) navigate coastal and inland waters of the district; and

(7) provide parks and recreational facilities for the inhabitants in the district, subject to the provisions of Chapter 49.

Added by Acts 1971, 62nd Leg., p. 786, ch. 84, Sec. 1. Amended by Acts 1985, 69th Leg., ch. 100, Sec. 2, eff. Sept. 1, 1985; Acts 2003, 78th Leg., ch. 248, Sec. 27, eff. June 18, 2003.

Sec. 54.203. MUNICIPAL SOLID WASTE. A district is authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, extend, or establish a municipal solid waste collection and disposal system, including recycling, inside and outside the district and make proper charges for it. A district may require use of such services as a condition for receiving other district services. A district may enter into an exclusive contract with a private entity to provide such services to all land and persons within its boundaries.

Added by Acts 1971, 62nd Leg., p. 787, ch. 84, Sec. 1. Amended by Acts 1991, 72nd Leg., ch. 820, Sec. 1, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 715, Sec. 18, eff. Sept. 1, 1995.

Sec. 54.205. ADOPTING RULES AND REGULATIONS. A district may adopt and enforce reasonable rules and regulations to:

(1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its

sanitary sewer system;

(2) preserve the sanitary condition of all water controlled by the district;

(3) prevent waste or the unauthorized use of water controlled by the district;

(4) regulate privileges on any land or any easement owned or controlled by the district; and

(5) provide and regulate a safe and adequate freshwater distribution system.

Added by Acts 1971, 62nd Leg., p. 787, ch. 84, Sec. 1. Amended by Acts 1981, 67th Leg., p. 3150, ch. 828, Sec. 1, eff. June 17, 1981.

Sec. 54.2051. SERVICE CONNECTIONS TO CERTAIN DWELLING UNITS. (a) If the tenant of an individually metered dwelling unit applies to a district for utility service for that unit, the district may not require that the service be connected in the name of the landlord or owner of the unit.

(b) This section does not apply to a dwelling unit that is located in a building that:

(1) contains two or more dwelling units; and

(2) is served by a master meter or demand meter.

(c) In this section, "individually metered dwelling unit" means one or more rooms:

(1) rented for use as a permanent residence under a single verbal or written rental agreement; and

(2) served by a utility meter that belongs to the district and measures service only for that unit.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 8, eff. Sept. 1, 1997.

Sec. 54.2052. PLUMBING CODE. Notwithstanding any other law, a district is not required to adopt a plumbing code. A district may adopt and enforce one or more plumbing codes meeting the standards and requirements of the rules and laws of this state and may amend any code adopted to conform to local concerns if the amendment does not substantially vary from rules or laws of this state. If a municipal regulation conflicts with a district regulation, the municipal regulation prevails.

Added by Acts 2003, 78th Leg., ch. 248, Sec. 28, eff. June 18, 2003.

Sec. 54.206. EFFECT OF RULES. After the required publication, rules adopted by the district under Section 54.205 of this code shall be recognized by the courts as if they were penal ordinances of a city.

Added by Acts 1971, 62nd Leg., p. 787, ch. 84, Sec. 1.

Sec. 54.207. PUBLICATION OF RULES. (a) The board shall publish once a week for two consecutive weeks a substantive statement of the rules and the penalty for their violation in one or more newspapers with general circulation in the area in which the district is located.

(b) The substantive statement shall be condensed as far as possible to intelligently explain the purpose to be accomplished or the act forbidden by the rules.

(c) The notice must advise that breach of the rules will subject the violator to a penalty and that the full text of the rules are on file in the principal office of the district where they may be read by any interested person.

(d) Any number of rules may be included in one notice.

Added by Acts 1971, 62nd Leg., p. 787, ch. 84, Sec. 1.

Sec. 54.208. EFFECTIVE DATE OF RULES. The penalty for violation of a rule is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published rule shall be in effect and ignorance of it is not a defense to a prosecution for the enforcement of the penalty.

Added by Acts 1971, 62nd Leg., p. 788, ch. 84, Sec. 1.

Sec. 54.209. LIMITATION ON USE OF EMINENT DOMAIN. A district may not exercise the power of eminent domain outside the district boundaries to acquire:

- (1) a site for a water treatment plant, water storage facility, wastewater treatment plant, or wastewater disposal plant;
- (2) a site for a park, swimming pool, or other recreational facility, as defined by Section 49.462;
- (3) an exclusive easement through a county regional park; or
- (4) a site or easement for a road project.

Added by Acts 2005, 79th Leg., Ch. 271 (H.B. 1208), Sec. 1, eff. June 9, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 21, eff. September 1, 2011.

Sec. 54.234. ACQUIRING ROAD POWERS. (a) Any district or any petitioner seeking the creation of a district may petition the commission to acquire the power under the authority of Article III, Section 52, Texas Constitution, to design, acquire, construct, finance, issue bonds for, and convey to this state, a county, or a municipality for operation and maintenance, a road described by Subsection (b) or any improvement in aid of the road.

(b) The road must meet the criteria for a thoroughfare, arterial, or collector road of:

(1) a county in whose jurisdiction the proposed road project is located; or

(2) a municipality in whose corporate limits or extraterritorial jurisdiction the proposed road project is located.

(c) As soon as practicable after such petition has been filed with the commission, the commission shall issue an order either approving or denying such petition.

(d) If the commission issues an order approving the petition, the district may undertake a road project if:

(1) the municipality or county that will operate and maintain the road has approved the plans and specifications of the road project; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state is to operate and maintain the road.

(e) Except as provided by Subsection (d), a district is not required to obtain approval from the Texas Transportation Commission to acquire, construct, convey, or finance the road project.

Added by Acts 1985, 69th Leg., ch. 951, Sec. 7, eff. Sept. 1, 1985.

Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(77), eff. Sept. 1, 1995;

Acts 2003, 78th Leg., ch. 248, Sec. 29, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 777 (H.B. 3770), Sec. 1, eff. June 15, 2007.

Sec. 54.235. AUTHORITY TO CONTRACT. Any district created by general law or special act of the legislature in existence for at least 10 years

which lies within a county that borders on the Gulf of Mexico and that has a population of 190,000 and which has the powers of this chapter and which also has or is authorized to acquire road utility district powers pursuant to Section 54.234, of this code, may contract with the county within which it is located with respect to the ownership, maintenance, and operation of any facilities or improvements which such district is authorized or may be authorized to acquire by purchase, gift, lease, or otherwise, except by condemnation, any and all property or interests in property, whether real, personal, or mixed, tangible or intangible, located inside or outside such county, that are found to be necessary for such improvements or facilities. Such county may enter into contracts with such districts as permitted by this section for any term of years not exceeding 40 for the management and operation of any or all of such property and interests in property on such terms as the commissioners court of such county deems appropriate.

Added by Acts 1985, 69th Leg., ch. 951, Sec. 8(a), eff. Sept. 1, 1985.

Sec. 54.2351. CONTRACTS WITH OTHER DISTRICTS OR WATER SUPPLY CORPORATIONS. (a) In this section, "authorized water district" means a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

(b) A district may enter into a contract with an authorized water district or a water supply corporation that authorizes the district to acquire, through the issuance of debt or other means, and convey to the authorized water district or water supply corporation all or part of a water supply, treatment, or distribution system, a sanitary sewage collection or treatment system, or works or improvements necessary for drainage of land in the district. The contract may:

(1) permit the district to rehabilitate, repair, maintain, improve, enlarge, or extend any existing facilities to be conveyed to the authorized water district or water supply corporation; or

(2) require the district to pay impact fees or other fees to the authorized water district or water supply corporation for capacity or service in facilities of the authorized water district or water supply corporation.

(c) The contract entered into under Subsection (b) may authorize the authorized water district or water supply corporation to purchase the water, sewer, or drainage system from the district through periodic payments to the district in amounts that, combined with the net income of the district, are sufficient for the district to pay the principal of and

interest on any bonds of the district. The contract may provide that the payments due under this subsection:

(1) are payable from and secured by a pledge of all or part of the revenues of the water, sewer, or drainage system;

(2) are payable from taxes to be imposed by the authorized water district; or

(3) are payable from a combination of the revenues and taxes described by Subdivisions (1) and (2).

(d) The contract may authorize the authorized water district or water supply corporation to operate the water, sewer, or drainage system conveyed by the district under Subsection (b).

(e) The contract may require the district to make available to the authorized water district or water supply corporation all or part of the raw or treated water to be used for the provision of services within the district.

(f) If the contract provides for the water, sewer, or drainage system to be conveyed to the authorized water district or water supply corporation on or after the completion of construction, the authorized water district or water supply corporation may pay the district to provide water, sewer, or drainage services to residents of the authorized water district or customers of the water supply corporation.

(g) The contract may authorize the district to convey to the authorized water district or water supply corporation at no cost a water, sewer, or drainage system and require the authorized water district or water supply corporation to use all or part of those systems to provide retail service to customers within the district in accordance with the laws of this state and any certificate of convenience and necessity of the authorized water district or water supply corporation.

(h) A contract under this section must be approved by a majority vote of the governing bodies of the district and the authorized water district or water supply corporation. If Section 52, Article III, or Section 59, Article XVI, Texas Constitution, requires that qualified voters of the district approve the imposition of a tax by the district or the authorized water district, the district or the authorized water district shall call an election for that purpose.

Added by Acts 2005, 79th Leg., Ch. 962 (H.B. 1644), Sec. 4, eff. June 18, 2005.

Sec. 54.236. STREET OR SECURITY LIGHTING. (a) Subject to the provisions of this section, a district may purchase, install, operate, and maintain street lighting or security lighting within public utility easements or public rights-of-way or property owned by the district.

(b) A district may not issue bonds supported by ad valorem taxes to pay for the purchase, installation, and maintenance of street or security lighting, except as authorized by Section 54.234 or Subchapter N, Chapter 49.

Added by Acts 1991, 72nd Leg., ch. 820, Sec. 2, eff. Aug. 26, 1991.

Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 30, eff. June 17, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 29, eff. September 1, 2013.

Sec. 54.237. ENFORCEMENT OF REAL PROPERTY RESTRICTIONS. (a) As used in this section, "restriction" means a limitation on the use of real property that is established or incorporated in properly recorded covenants, property restrictions, plats, plans, deeds, or other instruments affecting real property in a district and that has not been abandoned, waived, or properly rescinded.

(b) A district may take all actions necessary to enforce a restriction, including the initiation, defense, or intervention in litigation or an administrative proceeding to enjoin or abate the violation of a restriction when, in the reasonable judgment of the board of directors of the district, enforcement of the restriction is necessary to sustain taxable property values in the district.

(c) In addition to damages which a district is entitled to recover, a district shall be entitled to recover its costs and reasonable attorney's fees when a district is the prevailing party in litigation or an administrative proceeding to enforce a restriction.

Added by Acts 1991, 72nd Leg., ch. 820, Sec. 3, eff. Aug. 26, 1991.

Sec. 54.238. DEFINITIONS. In this subchapter:

(1) "Developer" means a person who owns a tract of land within a district and who has divided or proposes to divide the tract into two or more parts to lay out a subdivision of the tract, including an addition to a municipality, or to lay out suburban, building, or other lots, and to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of

lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

(2) "Facilities" means improvements constructed by a developer for a district.

Added by Acts 1993, 73rd Leg., ch. 1036, Sec. 1, eff. Sept. 1, 1993.

Sec. 54.239. APPEAL TO THE COMMISSION OF DECISION OF BOARD REGARDING FACILITIES. A person aggrieved by a decision of a board involving the cost, purchase, or use of facilities may appeal the decision to the commission by filing a petition with the commission seeking appropriate relief within 30 days after the date of the decision. The commission may require a petitioner to include with a petition under this subchapter a deposit in an amount estimated to be sufficient to pay the costs of notice under V.T.C.A., Water Code Sec. 54.240 and to hold the hearing on the dispute.

Added by Acts 1993, 73rd Leg., ch. 1036, Sec. 1, eff. Sept. 1, 1993.

Sec. 54.240. NOTICE. The commission shall give notice of the petition to persons who the commission determines may be affected by the petition, including:

- (1) the board;
- (2) the owners of land within the district; and
- (3) the ratepayers of the district who are served by the facilities that are the subject of the petition.

Added by Acts 1993, 73rd Leg., ch. 1036, Sec. 1, eff. Sept. 1, 1993.

Sec. 54.241. ACTION ON THE PETITION. (a) After notice and hearing, the commission shall render a written decision granting or denying the petition, in whole or in part.

- (b) In rendering its decision, the commission shall consider:
- (1) the suitability of and necessity for the facilities;
 - (2) the reasonableness of the cost of the facilities;
 - (3) the economic viability of the district; and
 - (4) any other relevant evidence.

Added by Acts 1993, 73rd Leg., ch. 1036, Sec. 1, eff. Sept. 1, 1993.

Sec. 54.242. STREET REPAIR OR MAINTENANCE. A district created by general law or special act of the legislature in existence for at least 10 years may repair or maintain a street within the district as provided by Section 54.522.

Added by Acts 1997, 75th Leg., ch. 520, Sec. 1, eff. Sept. 1, 1997.

Sec. 54.243. DISPOSITION OF IMPACT FEES. A district that charges a fee that is an impact fee as described in Section 395.001(4), Local Government Code, shall use the fees collected and any interest accrued on the fees collected only for:

(1) payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the district to finance the capital improvements or facility expansions identified in the capital improvement plan required by Section 395.012(d), Local Government Code; or

(2) cash payment of the costs of capital improvements or facility expansions identified in the capital improvement plan required by Section 395.012(d), Local Government Code.

Added by Acts 1999, 76th Leg., ch. 1269, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1313, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER F. ISSUANCE OF BONDS

Sec. 54.501. ISSUANCE OF BONDS. The district may issue its bonds for any purpose authorized by this chapter, Chapter 49, or other applicable laws, including the purpose of purchasing, constructing, acquiring, owning, operating, repairing, improving, or extending any district works, improvements, facilities, plants, equipment, and appliances needed to accomplish the purposes set forth in Section 54.012 for which a district shall be created, including works, improvements, facilities, plants, equipment, and appliances needed to provide a waterworks system, sanitary sewer system, storm sewer system, and solid waste disposal system.

Added by Acts 1971, 62nd Leg., p. 795, ch. 84, Sec. 1. Amended by Acts 1985, 69th Leg., ch. 100, Sec. 3, eff. Sept. 1, 1985.

Amended by:

Acts 2005, 79th Leg., Ch. 962 (H.B. 1644), Sec. 5, eff. June 18, 2005.

Sec. 54.502. FORM OF BONDS. (a) A district may issue its bonds in various series or issues.

(b) Bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate permitted by the Constitution and laws of the state, all as shall be determined by the board.

(c) A district's bonds and interest coupons, if any, shall be investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and shall or may be made redeemable before maturity, at the option of the district or may contain a mandatory redemption provision all as may be provided by the board. A district's bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing their issuance.

Added by Acts 1971, 62nd Leg., p. 795, ch. 84, Sec. 1.

Sec. 54.503. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of principal of and interest and redemption price on the bonds in any one of the following manners:

(1) from the levy and collection of ad valorem taxes on all taxable property within the district;

(2) by pledging all or any part of the designated revenues to result from the ownership or operation of the district's works, improvements, facilities, plants, equipment, and appliances or under specific contracts for the period of time the board determines;

(3) by pledging all or part of any funds or revenues available to the district; or

(4) a combination of the sources set forth in Subdivisions (1), (2), and (3) of this section.

Added by Acts 1971, 62nd Leg., p. 795, ch. 84, Sec. 1. Amended by Acts 2003, 78th Leg., ch. 248, Sec. 30, eff. June 18, 2003.

Sec. 54.504. ADDITIONAL SECURITY FOR BONDS. (a) The bonds, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the district, and franchises, easements, water rights, and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers and authority necessary for the further security of the bonds.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the board for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification, and may condition the right to spend district money or sell district property on approval of a registered professional engineer selected as provided in the trust indenture and may make provisions for investment of funds of the district.

(c) Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities, and rights purchased and shall have the right to maintain and operate them.

Added by Acts 1971, 62nd Leg., p. 796, ch. 84, Sec. 1.

Sec. 54.505. ELECTION ON TAX BONDS. Bonds payable solely from revenues may be issued by resolution or order of the board without an election, but no bonds, except refunding bonds, payable wholly or partially from ad valorem taxes shall be issued until authorized by a majority vote of the resident electors of the district voting in an election called and held for that purpose. An election is not required to pledge revenues to the payment of bonds.

Added by Acts 1971, 62nd Leg., p. 796, ch. 84, Sec. 1. Amended by Acts 2003, 78th Leg., ch. 248, Sec. 31, eff. June 18, 2003.

Sec. 54.507. NOTICE OF BOND ELECTION. (a) Repealed by Acts 1995, 74th Leg., ch. 715, Sec. 43, eff. Sept. 1, 1995.

(b) All or any part of any facilities or improvements which may be acquired by a district by the issuance of its bonds may be included in one single proposition to be voted on at the election or the bonds may be submitted in several propositions. A bond election may also be held on the same day as the confirmation election. The bond election may be called by a separate election order or as a part of the order calling the confirmation election.

(c) If a majority of the votes cast at the election are in favor of the issuance of the bonds, the bonds may be issued by the board if the confirmation election results favorably to the confirmation of the district.

Added by Acts 1971, 62nd Leg., p. 796, ch. 84, Sec. 1. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 43, eff. Sept. 1, 1995.

Sec. 54.510. PROVISIONS OF BONDS. (a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those works, improvements, plants, facilities, equipment, and appliances the revenue of which is pledged, including provisions for the operation or for the leasing of all or any part of the improvements and the use or pledge of money derived from the operation contracts and leases, as the board may consider appropriate.

(b) The orders or resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to the conditions which may be set forth in the orders or resolutions.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine, not prohibited by the Constitution or by this chapter.

(d) The board may adopt and cause to be executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

Added by Acts 1971, 62nd Leg., p. 797, ch. 84, Sec. 1.

Sec. 54.512. SALE OR EXCHANGE OF BONDS. (a) The board shall sell the bonds on the best terms and for the best possible price but none of the bonds may be sold for less than 95 percent of face value.

(b) The district may exchange bonds for property acquired by purchase or in payment of the contract price of work done or services performed for the use and benefit of the district.

Added by Acts 1971, 62nd Leg., p. 797, ch. 84, Sec. 1.

Sec. 54.514. REFUNDING BONDS. (a) A district may issue bonds to refund all or any part of its outstanding bonds, notes, or other

obligations including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the Constitution and laws of the state.

(c) Refunding bonds may be payable from the same source as the bonds, notes, or other obligations being refunded or from other additional sources.

(d) The refunding bonds shall be approved by the attorney general as in the case of other bonds and shall be registered by the comptroller on the surrender and cancellation of the bonds being refunded.

(e) The orders or resolutions authorizing the issuance of the refunding bonds may provide that they shall be sold and the proceeds deposited in the place or places where the bonds being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded provided an amount sufficient to pay the interest on and principal of the bonds being refunded to their maturity dates, or to their option dates if the bonds have been duly called for payment prior to maturity according to their terms, has been deposited in the place or places where the bonds being refunded are payable. The comptroller shall register them without the surrender and cancellation of bonds being refunded.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons shall be investment securities under the provisions of Article 8 of the Business & Commerce Code.

(g) In lieu of the method set forth in Section 54.514(a)-(f) of this code, a district may refund bonds, notes, or other obligations as provided by the general laws of the state.

Added by Acts 1971, 62nd Leg., p. 798, ch. 84, Sec. 1.

Sec. 54.5161. REVIEW OF BOND PROJECTS BY COUNTIES. (a) Before the commission gives final approval on any bond issue for the purpose of financing a project of a district located wholly or partly outside the extraterritorial jurisdiction of a city, the commission shall notify the county commissioners of the county in which the district is located that an application has been filed and give the county an opportunity within 30 days after notification to examine all information on file and submit a written opinion from the commissioners court stating any findings,

conclusions, or other information that the commissioners court considers important to the commission's final determination.

(b) In passing on the approval of a bond issue under this section, if a written opinion is submitted by the commissioners court, the commission shall consider the written opinion before taking final action.

Added by Acts 1975, 64th Leg., p. 1294, ch. 485, Sec. 3, eff. Sept. 1, 1975.

Sec. 54.518. MANDAMUS BY BONDHOLDERS. In addition to all other rights and remedies provided by the laws of the state, in the event the district defaults in the payment of principal, interest, or redemption price on its bonds when due, or in the event it fails to make payments into any fund or funds created in the order or resolution authorizing the issuance of the bonds, or defaults in the observation or performance of any other covenants, conditions, or obligations set forth in the resolution or order authorizing the issuance of its bonds, the owners of any of the bonds shall be entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the district and its officials to observe and perform the covenants, obligations, or conditions prescribed in the order or resolution authorizing the issuance of the district's bonds.

Added by Acts 1971, 62nd Leg., p. 799, ch. 84, Sec. 1.

Sec. 54.520. CANCELLATION OF UNSOLD BONDS. (a) The board, by order or resolution, may provide for the cancellation of all or any part of any bonds which have been submitted to and approved by the attorney general and registered by the comptroller, but not yet sold, and provide for the issuance of new bonds in lieu of the old bonds in the manner as provided by law for the issuance of the original bonds including their approval by the attorney general and their registration by the comptroller.

(b) The order or resolution of the board shall describe the bonds to be cancelled, and shall also describe the new bonds to be issued in lieu of the old bonds.

(c) A certified copy of the order or resolution of the board providing for the cancellation of the old bonds, together with the old bonds, shall be delivered to the comptroller, who shall cancel and destroy the old bonds and make a record of the cancellation.

Added by Acts 1971, 62nd Leg., p. 800, ch. 84, Sec. 1.

Sec. 54.521. USE OF BOND PROCEEDS TO PAY CERTAIN INTEREST. The district may use bond proceeds to pay or to establish a reasonable reserve to pay not more than three years' interest on the notes and bonds of the district as provided in the bond orders or resolutions.

Added by Acts 1979, 66th Leg., p. 882, ch. 402, Sec. 1, eff. Aug. 27, 1979.

Sec. 54.522. BONDS FOR STREET REPAIR OR MAINTENANCE. (a) The legislature finds that the condition of streets affects:

(1) the control, storage, preservation, and distribution of the state's storm and flood waters;

(2) the control, abatement, or change of any shortage or harmful excess of water; and

(3) a municipal utility district's ability to accomplish its purposes.

(b) It is the policy of the state to authorize a municipal utility district in certain circumstances to take action that is necessary to prevent the condition of a street within the district from adversely affecting the control, storage, preservation, and distribution of the state's storm and flood waters, adversely affecting the control, abatement, or change of any shortage or harmful excess of water, or otherwise impeding a district's ability to accomplish its purposes.

(c) A district created by general law or special act of the legislature in existence for at least 10 years may issue bonds for the purpose of repairing or maintaining streets within the district if the bonds are authorized by a majority vote of the resident electors of the district voting in an election called and held for that purpose.

(d) An election required by this section must be held on the uniform election date in November authorized by Section 41.001, Election Code. Notwithstanding Section 41.003, Election Code, an election under this section may be held on the date of the general election for state and county officers.

Added by Acts 1997, 75th Leg., ch. 520, Sec. 2, eff. Sept. 1, 1997.

SUBCHAPTER G. TAXES

Sec. 54.601. TAX LEVY FOR BONDS. At the time bonds payable in whole or in part from taxes are issued, the board shall levy a continuing direct annual ad valorem tax for each year while all or part of the bonds are outstanding on all taxable property within the district in sufficient

amount to pay the interest on the bonds as it becomes due and to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date and to pay the expenses of assessing and collecting the taxes.

Added by Acts 1971, 62nd Leg., p. 801, ch. 84, Sec. 1.

Sec. 54.602. ESTABLISHMENT OF TAX RATE IN EACH YEAR. (a) Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, Sec. 6(a)(3), eff. Jan. 1, 1982.

(b) In determining the actual rate to be levied in each year, the board shall consider among other things:

(1) the amount which should be levied for maintenance and operation purposes, if a maintenance tax has been authorized;

(2) the amount which should be levied for the payment of principal, interest, and redemption price of each series of bonds or notes payable in whole or in part from taxes;

(3) the amount which should be levied for the purpose of paying all other contractual obligations of the district payable in whole or in part from taxes; and

(4) the percentage of anticipated tax collections and the cost of collecting the taxes.

(c) In determining the amount of taxes which should be levied each year, the board may consider whether proceeds from the sale of bonds have been placed in escrow to pay interest during construction and whether the board reasonably expects to have revenue or receipts available from other sources which are legally available to pay principal of or interest or redemption price on the bonds. The board shall levy a tax in the first full year after issuance of its first series of bonds.

Added by Acts 1971, 62nd Leg., p. 801, ch. 84, Sec. 1. Amended by Acts 1979, 66th Leg., p. 2330, ch. 841, Sec. 6(a)(3), eff. Jan. 1, 1982.

Sec. 54.603. MANDAMUS BY BONDHOLDERS. In the event the board fails or refuses to levy a sufficient tax in each year which, together with other revenues or receipts which may be legally used for these purposes, will be sufficient to pay the required principal of or interest or redemption price on the bonds, notes, or other contractual obligations when due, or to pay the district's other contractual obligations payable from taxes in addition to all other remedies which may be available, the owner of the district's bonds, notes, or other contractual obligations shall be entitled to a writ of mandamus issued by a court of competent jurisdiction to compel the board

to levy a sufficient tax to meet the district's obligations to the owners of its bonds, notes, or other contractual obligations.

Added by Acts 1971, 62nd Leg., p. 801, ch. 84, Sec. 1.

Sec. 54.604. ASSESSMENT AND COLLECTION OF DISTRICT TAXES. The assessor and collector shall assess and collect taxes for the district.

Added by Acts 1971, 62nd Leg., p. 801, ch. 84, Sec. 1. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, Sec. 4(r), eff. Jan. 1, 1982.

SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY; CONSOLIDATING AND DISSOLVING DISTRICTS

Sec. 54.728. CONSOLIDATION OF DISTRICTS. Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 54.729-54.733 of this code.

Added by Acts 1971, 62nd Leg., p. 810, ch. 84, Sec. 1.

Sec. 54.729. ELECTIONS TO APPROVE CONSOLIDATION. (a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the bonds, notes, or other obligations and voted but unissued bonds of the other consolidating districts payable in whole or in part from taxation, the levy of taxes to pay for the bonds, and adoption of a name for the consolidated district, the board shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for the time and in the manner provided by law for bond elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

Added by Acts 1971, 62nd Leg., p. 810, ch. 84, Sec. 1. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 19, eff. Sept. 1, 1995.

Sec. 54.730. GOVERNING CONSOLIDATED DISTRICTS. (a) After two or more districts are consolidated, they become one district and are governed as one district, except for the payment of debts created before consolidation if the conditions of consolidation do not provide for the

assumption by each district of the bonds, notes, or other obligations and voted but unissued bonds of the other consolidating districts.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next general election or name persons to serve as officers of the consolidated district until the next general election if all officers of the original districts agree to resign. At the next general election, directors will be elected for the consolidated district in the same manner and for the same term as directors elected at a confirmation election.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current board shall approve the bond of each new officer.

Added by Acts 1971, 62nd Leg., p. 810, ch. 84, Sec. 1. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 20, eff. Sept. 1, 1995.

Sec. 54.731. DEBTS OF ORIGINAL DISTRICTS. (a) After two or more districts are consolidated, the debts of the original districts shall be protected and may not be impaired. These debts may be paid by taxes levied on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

(b) If each district assumed the other's bonds, notes, and other obligations, taxes may be levied uniformly on all taxable property within the consolidated district in payment of the debts.

Added by Acts 1971, 62nd Leg., p. 811, ch. 84, Sec. 1.

Sec. 54.732. ASSESSMENT AND COLLECTION OF TAXES. After consolidation, the district shall assess and collect taxes on property in the original districts to pay debts created by the original districts unless each district has assumed the bonds, notes, or other indebtedness payable in whole or in part from taxation of the other consolidating districts.

Added by Acts 1971, 62nd Leg., p. 811, ch. 84, Sec. 1. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 21, eff. Sept. 1, 1995.

Sec. 54.733. VOTED BUT UNISSUED BONDS. In the event any consolidating district has voted but unissued bonds payable in whole or in part from taxation and the consolidated district assumed the voted but unissued bonds and the consolidated district was authorized to levy taxes to pay for the bonds, then the consolidated district shall be authorized to issue the voted but unissued bonds in the name of the consolidated district and levy a uniform tax on all taxable property in the consolidated district to pay for the bonds.

Added by Acts 1971, 62nd Leg., p. 811, ch. 84, Sec. 1. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 22, eff. Sept. 1, 1995.

Sec. 54.734. DISSOLUTION OF DISTRICT PRIOR TO ISSUANCE OF BONDS. (a) If the board considers it advisable before the issuance of any bonds, notes, or other indebtedness, the board may dissolve the district and liquidate the affairs of the district as provided in Sections 54.734-54.738 of this code.

(b) If a majority of the board finds at any time before the authorization of bonds, notes, or other obligations or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

Added by Acts 1971, 62nd Leg., p. 811, ch. 84, Sec. 1.

Sec. 54.735. NOTICE OF HEARING. The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district and shall publish notice of the hearing two times in a newspaper with general circulation in the district. The notice must be posted and published at least 14 days before the hearing on the proposed dissolution of the district.

Added by Acts 1971, 62nd Leg., p. 811, ch. 84, Sec. 1.

Sec. 54.736. HEARING. The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

Added by Acts 1971, 62nd Leg., p. 812, ch. 84, Sec. 1.

Sec. 54.737. BOARD'S ORDER TO DISSOLVE DISTRICT. If the board unanimously determines from the evidence that the best interests of the persons and property in the district will be served by dissolving the district, the board shall enter the appropriate findings and order in its records dissolving the district. Otherwise the board shall enter its order providing that the district has not been dissolved.

Added by Acts 1971, 62nd Leg., p. 812, ch. 84, Sec. 1.

Sec. 54.738. JUDICIAL REVIEW OF BOARD'S ORDER. The board's decree to dissolve the district may be judicially reviewed in the manner set forth in Sections 54.708-54.710 of this code for the review of an order excluding land from the district.

Added by Acts 1971, 62nd Leg., p. 812, ch. 84, Sec. 1.

Sec. 54.739. SUBSTITUTING LAND OF EQUAL VALUE. After the district is organized and has obtained voter approval for the issuance of, or has sold, bonds payable wholly or partly from ad valorem taxes, land within the district boundaries subject to taxation that does not need or utilize the services of the district may be excluded and other land not within the boundaries of the district may be included within the boundaries of the district without impairment of the security for payment of the bonds or invalidation of any prior bond election, as provided by this section and Sections [54.740](#) through [54.747](#).

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 248, Sec. 32, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. [902](#)), Sec. 30, eff. May 18, 2013.

Sec. 54.740. REQUISITES FOR APPLICATION FOR EXCLUSION. An owner of land in the district not receiving services from the district may apply for its exclusion from the district boundaries if all taxes levied and assessed

by the district on the land to be excluded have been fully paid. The application shall set forth facts concerning the land proposed for exclusion, including evidence of the reasonable market value of the land, and state that the other requisites for the exclusion of the land and substitution of other land have been fulfilled or will be fulfilled at the hearing on the application. The application shall be verified and acknowledged in a recordable form as conveyances of real property.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Sec. 54.741. INCLUSION OF SUBSTITUTE LAND REQUIRED. An application for exclusion can only be considered by the board if an application is filed by an owner of other land lying outside the boundaries of the district seeking inclusion of land that can be served in a practical manner by the district of at least equal value to the land proposed for exclusion. Such land must be included within the district boundaries and taxing jurisdiction of the district simultaneously with the exclusion of the land proposed for exclusion. Such included land must be of sufficient acreage to avoid an impairment of the security for payment of voted and issued bonds and any other contract obligations payable or secured, in whole or in part, from ad valorem taxes or revenues of the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Sec. 54.742. APPLICATION FOR INCLUSION. The application submitted by an owner of land proposed for inclusion shall set forth that the owner of the new land assumes the payment of all taxes, assessments, and fees levied on the land and assessed by the district after the date the land is included in the district. The application shall also set forth an agreement by the owner of the land proposed for inclusion that the land will be subject to future taxes for bond tax and other assessments and fees levied and assessed by the district and be subject to the same liens and provisions and statutes governing all other lands in the district as though the land had been incorporated originally in the district. The application for inclusion shall be verified and acknowledged in a recordable form as conveyances of real property.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Sec. 54.743. NOTICE OF HEARING AND HEARING PROCEDURES. The board shall give notice of the hearing on the applications for exclusion and

inclusion in conformity with the notice and hearing requirements otherwise applicable to exclusions or additions of land. The board at such hearing shall hear all interested parties and all evidence in connection with the applications.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Sec. 54.744. IMPAIRMENT OF SECURITY. (a) For purposes of the board's consideration of the applications, the lands proposed for inclusion shall be deemed to be sufficient to avoid an impairment of the security for payment of obligations of the district if:

(1) according to the most recent tax roll of the district or the most recently certified estimates of taxable value from the chief appraiser of the appropriate appraisal district, the taxable value of such included lands equals or exceeds the taxable value of the excluded lands; and

(2) either the estimated costs of providing district facilities and services to such included lands is equal to or less than the estimated costs of providing district facilities and services to the excluded lands or any increased estimated costs of providing district facilities and services to the included land, as determined by the district's engineer, can be amortized at prevailing bond interest rates and maturity schedules and the prevailing debt service tax rate of the district, as determined by the district's professional financial advisor, when applied to the increase in taxable value of the included land over the taxable value of the excluded land.

(b) If the district has any outstanding bonds or contract obligations payable in whole or in part by a pledge of net revenues from the ownership or operation of the district's facilities at the time the board considers an application, the lands proposed for inclusion shall be deemed to be sufficient to avoid an impairment of the security for payment of obligations of the district if the projected net revenues to be derived from the lands to be included during the succeeding 12-month period, as determined by the district's engineer, equals or exceeds the projected net revenues that would otherwise have been derived from the lands to be excluded during the same period.

(c) In this section, the taxable value of included land means the market value of the land if, before or contemporaneously with the inclusion of the land in the district, the owner of the land waives the right to special appraisal of the land as to the district under Section 23.20, Tax Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 248, Sec. 32, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 31, eff. May 18, 2013.

Sec. 54.745. BOARD'S RESOLUTION TO SUBSTITUTE. If the board finds that all the conditions provided for the exclusion of land and inclusion of other land in the district exist and that it is in the best interest of the district to grant such applications, it may adopt and enter in its minutes a resolution and order excluding all or part of the land proposed for exclusion and including all or part of the land proposed for inclusion. Prior to the effective date of the exclusion and inclusion of lands, the district shall have received payment of all fees, charges, assessments, taxes, together with any associated penalties and interest due or overdue in respect to the lands excluded, and if no ad valorem taxes or fees have yet been established by the district for the current year, an amount determined by the district to equal the estimated ad valorem taxes and standby fees to be established by the district for the current year, prorated to the date of exclusion with respect to such excluded lands, shall also be paid.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Sec. 54.746. LIABILITY OF EXCLUDED AND INCLUDED LAND. The land excluded from the district is free from any lien or liability created on the excluded land by reason of its having been included in the district. Land included in the district is subject to all laws, liens, and provisions governing the district and the land in the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Sec. 54.747. SERVICE TO INCLUDED LAND. The district has the same right and obligation to furnish services to the included land that it previously had to furnish to the excluded land.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 23, eff. Sept. 1, 1995.

Sec. 54.748. EXCLUSION OF LAND FOR FAILURE TO PROVIDE SUFFICIENT SERVICES; BONDS OUTSTANDING. (a) This section applies only to a district

that has a total area of more than 5,000 acres.

(b) The board shall call a hearing on the exclusion of land from the district on a written petition filed with the secretary of the board by a landowner whose land has been included in and taxable by the district for more than 28 years if any bonds issued by the district payable in whole or in part from taxes of the district are outstanding and the petition:

(1) includes a signed petition evidencing the consent of the owners of a majority of the acreage proposed to be excluded, as reflected by the most recent certified tax roll of the district;

(2) includes a claim that the district has not provided the land with utility services;

(3) describes the property to be excluded;

(4) provides, at the petitioner's expense, facts necessary for the board to make the findings required by Subsection (c); and

(5) is filed before August 31, 2005.

(c) The board may exclude land under this section only on finding that:

(1) the district has never provided utility services to the land described by the petition;

(2) the district has imposed a tax on the land for more than 28 years;

(3) all taxes the district has levied and assessed against the land and all fees and assessments the district has imposed against the land or the owner that are due and payable on or before the date of the petition are fully paid; and

(4) the executive director has reviewed the economic impact of the proposed exclusion of land and does not oppose the exclusion.

(d) If evidence presented at the hearing conclusively demonstrates that the requirements and grounds for exclusion described by Subsections (b) and (c) have been met, the board may enter an order excluding the land from the district. If the board enters an order excluding the land, the board shall redefine in the order the boundaries of the district to embrace all land not excluded.

(e) A copy of an order excluding land and redefining the boundaries of the district shall be filed in the deed records of the county in which the district is located.

(f) The exclusion of land under this section does not impair the rights of holders of any outstanding bonds, warrants, or other certificates of indebtedness of the district.

(g) After any land is excluded under this section, the district may issue any unissued additional debt approved by the voters of the district before exclusion of the land under this section without holding a new election. Additional debt issued after land is excluded from the district may not be payable from and does not create a lien against the taxable value of the excluded land.

(h) For purposes of this section and Section 54.749, "land" includes any improvements to the land, and when used in the context of property taxes, "land" has the meaning assigned to "real property" by Section 1.04, Tax Code.

Added by Acts 2003, 78th Leg., ch. 248, Sec. 33, eff. June 18, 2003.

Sec. 54.749. TAX LIABILITY OF EXCLUDED LAND; BONDS OUTSTANDING. (a) Land excluded from the district under Section 54.748 that is pledged as security for any outstanding debt of the district remains pledged for its pro rata share of the debt until final payment is made. The district shall continue to levy and collect taxes on the excluded land at the same rate levied on land remaining in the district until the amount of taxes collected from the excluded land equals the land's pro rata share of the district's debt outstanding at the time the land was excluded from the district.

(b) The district shall apply the taxes collected on the excluded land only to the payment of the excluded land's pro rata share of the debt.

Added by Acts 2003, 78th Leg., ch. 248, Sec. 33, eff. June 18, 2003.

SUBCHAPTER J. SERVICES FOR CERTAIN DEFINED AREAS AND DESIGNATED PROPERTY

Sec. 54.801. AUTHORITY TO ESTABLISH DEFINED AREAS OR DESIGNATED PROPERTY. (a) A district that is composed of at least 1,500 acres may define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as a whole.

(b) The board shall state in its designation the physical and economic reasons, the particular diverse local needs, or the comparative potential benefits of the defined areas or designated property in the district that make it necessary or equitable to levy all or part of the tax on a defined area or designated property of the district.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.802. DEFINING AREA AND DESIGNATING PROPERTY TO BE BENEFITED BY IMPROVEMENTS. (a) The board shall adopt a proposed plan that defines the particular area to be taxed by metes and bounds or designates the property to be served, affected, and taxed.

(b) The board shall adopt a proposed plan for improvements in the defined area or to serve the designated property in the manner provided by Section 49.106.

(c) The board shall adopt a proposed plan of taxation to apply to the defined area or designated property that may or may not be in addition to other taxes imposed by the district on the same area or property.

Added by Acts 1987, 70th, Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 32, eff. Sept. 1, 1997.

Sec. 54.803. NOTICE OF ADOPTION OF PLANS FOR DEFINED AREA OR DESIGNATED PROPERTY AND HEARING. (a) After proposed plans for a defined area or designated property are adopted, the board shall publish notice of the adoption once a week for two consecutive weeks in one or more newspapers with general circulation in the county or counties in which the district is located.

(b) The notice must state:

(1) that proposed plans for a defined area or designated property have been adopted;

(2) that a map and description of the area or property is available for public inspection in the district's office;

(3) that a hearing on the proposed plans will be held by the board at a specified place and at a particular time; and

(4) that all interested persons may appear and support or oppose all or part of the proposed plans and offer testimony.

(c) A hearing for which notice is required by this section must be held not less than 15 days and not more than 20 days after the date on which the first notice is published.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.804. ORDER ADOPTING PLANS FOR DEFINED AREA OR DESIGNATED PROPERTY. (a) After the hearing is completed, the board may approve the proposed plans for the defined area or designated property or may modify the proposed plans.

(b) If the board adopts a proposed plan, it must adopt the definition or designation that it finds, according to the evidence before the board, most equitably distributes the cost of facilities or service and protects the public welfare.

(c) If the proposal includes the issuance of bonds or the imposition of a maintenance tax for the defined area or designated property, the board shall call and hold an election in the defined area or within the boundaries of the designated property only.

(d) The board's order is not subject to judicial review except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1989, 71st Leg., ch. 973, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.805. OBTAINING FUNDS TO CONSTRUCT, ADMINISTER, MAINTAIN, AND OPERATE IMPROVEMENTS AND FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On adoption of the plans as provided by Section 54.804 of this code and voter approval of the plans, the district, under the limitations of this subchapter, may apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property to provide money to construct, administer, maintain, and operate improvements and facilities that primarily benefit the defined area or designated property.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.806. PROCEDURE FOR ELECTION. (a) Before the adopted plans may become effective, they must be approved by the voters in the defined area or within the boundaries of the designated property. The election shall be conducted as provided by Section 49.106 for an election to authorize the issuance of bonds.

(b) The board may submit the issues to the voters on the same ballot to be used in another election.

(c) The notice of election must describe the area to be defined or property to be designated and must otherwise conform to the provisions of this chapter relating to notice of bond elections.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 33, eff. Sept. 1, 1997.

Sec. 54.807. BALLOTS. The ballot proposition for an election under this subchapter must be printed to provide for voting for or against defining the area or designating the property and, if applicable, issuing bonds and levying a tax to retire the bonds or imposing a maintenance tax not to exceed the rate, which must be specified in the ballot proposition, provided by the proposed plans.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1989, 71st Leg., ch. 973, Sec. 2, eff. Aug. 28, 1989.

Sec. 54.808. DECLARING RESULT AND ISSUING ORDER. (a) If a majority of the voters voting at the election approve the proposition, the board shall declare the results and, by order, shall establish the defined area and describe it by metes and bounds or designate the specific property and shall set the tax rate for the area or property as otherwise provided by the Tax Code.

(b) A certified copy of the order shall be recorded in the minutes of the district and shall constitute notice.

(c) If a majority of the voters voting at the election fail to approve the proposition, the board may not establish the defined area or designate the property.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.809. ISSUANCE OF BONDS AND LEVY OF TAX FOR DEFINED AREA OR DESIGNATED PROPERTY. After the order is recorded, the district may issue its bonds to provide the specific plant, works, and facilities included in the plans adopted for the defined area, or to serve the designated property and shall provide the plant, works, and facilities.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.810. LIMITATION ON OTHER BOND AUTHORIZATIONS. If the voters of the designated area authorize the issuance of bonds for a particular purpose, a district may not issue bonds from any other authorization for the same purposes, and only revenue and taxes from the designated area may be used to retire the bonds.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.811. PLEDGE OF FAITH AND CREDIT. If at an election, the voters approve the issuance of bonds and the levy of a tax that applies only to a designated area, the district may issue bonds that pledge only the faith and credit based on the property values in the defined area and may not pledge the full faith and credit of the district.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.812. NOTICE TO PURCHASERS. (a) A person who sells or conveys real property located within the designated area of the district shall supplement the notice to purchaser required by Section 50.301, of this code, as provided by this section.

(b) The prescribed notice shall be inserted into the general notice after the first sentence and shall read as follows: "The real property described below, which you are about to purchase, is also located within a designated area of the district and your land will be subject to a higher tax than other land within the district. Your rate of taxes will be higher by \$_____ on each \$100 of assessed valuation than land not within the designated area."

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.813. MUNICIPALITY'S AUTHORITY REGARDING DEFINED AREA. (a) This section applies only to a municipality any portion of which is located in a county with a population of more than 1 million and less than 1.5 million.

(b) A municipality may not annex a part of a defined area in a district that has adopted a plan for the defined area under this subchapter unless:

(1) 90 percent or more of all facilities and infrastructure described by the plan has been installed and completed; and

(2) the municipality:

(A) annexes all of the defined area that is within the municipality's extraterritorial jurisdiction; and

(B) assumes the pro rata share of the bonded indebtedness of the annexed area.

(c) After the annexation occurs:

(1) the annexed area is not eligible to be a defined area under this subchapter; and

(2) the district may not impose in the annexed area a tax authorized for a defined area under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 962 (H.B. 1644), Sec. 6, eff. June 18, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 185, eff. September 1, 2011.