

TEXAS HIGHWAY LAWS



Compiled by

TEXAS HIGHWAY DEPARTMENT

AUSTIN, TEXAS

1965

Including

ACTS OF 59th LEGISLATURE

FOREWORD

The laws relating to the construction and maintenance of highways in Texas have accumulated over a period of 46 years. During this period the Texas Highway Department has evolved from an agency which merely gave financial aid to the counties to its present status of one which designs, constructs, maintains and operates a vast system of highways both in rural areas and in cities. This change of status has not been accomplished by a sweeping change of the laws under which the Department operates, but has come about through the gradual passage of laws which modified, but did not necessarily repeal those which went before them.

This revision includes the actions of the 59th Legislature (1965.) The order of presentation which was used in the previous editions has been retained.

The constitutional provisions are grouped together in the first chapter. In the remainder of the book the article numbers refer to Vernon's Texas Civil Statutes unless they are followed by the letters PC. These are codified in Vernon's Texas Penal Code. No attempt has been made to duplicate the laws relating to the licensing and operation of motor vehicles which are found in Texas Motor Vehicle Laws, a publication of the Motor Vehicle Division of the Texas Highway Department.

Right of Way Division
Texas Highway Department

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CONSTITUTION

ART. 1, SEC. 17. TAKING, DAMAGING OR DESTROYING PROPERTY FOR PUBLIC USE

No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money;...

ART. 3, SEC. 51. GRANTS OF PUBLIC MONEY PROHIBITED

The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever;...

ART. 3, SEC. 52-b. LOAN OF STATE'S CREDIT OR GRANT OF PUBLIC MONEY FOR TOLL ROAD PURPOSES

The Legislature shall have no power or authority to in any manner lend the credit of the State or grant any public money to, or assume any indebtedness, present or future, bonded or otherwise, of any individual, person, firm, partnership, association, corporation, public corporation, public agency, or political subdivision of the State, or anyone else, which is now or hereafter authorized to construct, maintain or operate toll roads and turnpikes within this State. Added Nov. 2, 1954.

ART. 8, SEC. 7-a. REVENUES FROM MOTOR VEHICLE REGISTRATION FEES AND TAXES ON MOTOR FUELS AND LUBRICANTS; PUR- POSES FOR WHICH USED

Subject to legislative appropriation, allocation and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from motor vehicle registration fees, and all taxes, except gross production and ad valorem taxes, **on motor** fuels and lubricants used

CONSTITUTION

Art. 8, Sec. 7-a

to propel motor vehicles over public roadways, shall be used for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing such public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads; and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund under existing law; provided, however, that one-fourth (1/4) of such net revenue from the motor fuel tax shall be allocated to the Available School Fund; and, provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945. Nothing contained herein shall be construed as authorizing the pledging of the State's credit for any purpose. Added Nov. 5, 1946.

ART. 16, SEC. 24. ROADS AND BRIDGES

The legislature shall make provision for laying out and working public roads, for the building of bridges, and for utilizing fines, forfeitures, and convict labor to all these purposes.

ART. 16, SEC. 56. DISSEMINATION OF INFORMATION CONCERNING TEXAS RESOURCES

The Legislature of the State of Texas shall have the power to appropriate money and establish the procedure necessary to expend such money for the purpose of developing information about the historical, natural, agricultural, industrial, educational, marketing, recreational and living resources of Texas, and for the purpose of informing persons and corporations of other states through advertising in periodicals having national circulation, and the dissemination of factual information about the advantages and economic resources offered by the State of Texas; providing, however, that neither the name nor the picture of any living state official shall ever be used in any of said advertising, and providing that the Legislature may require that sum of money appropriated hereunder shall be matched by an equal sum paid into the State Treasury from private sources before any of said money may be expended. Adopted Nov. 4, 1958.

STATE HIGHWAY DEPARTMENT

ART. 6663. DEPARTMENT

The administrative control of the State Highway Department, hereinafter called the Department, shall be vested in the State Highway Commission, hereinafter called the Commission, and the State Highway Engineer. Said Department shall have its office at Austin where all its records shall be kept. (Acts 1917, p. 416.)

ART. 6664. COMMISSION

The Commission shall consist of three citizens of the State. With the advice and consent of the Senate, the Governor shall biennially appoint one member to serve for a term of six years, the classification to continue as constituted by law. The Governor shall designate one such member as chairman. Each member shall execute a bond payable to the State in the sum of five thousand dollars, to be approved by the Governor, and conditioned upon the faithful performance of his duties. The premium on such bonds shall be paid out of the State Highway Fund. (Acts 1917, p. 416; Acts 1923, p. 325.)

Ref: Bonds. See Art. 6003b, page 110.

ART. 6665. ORGANIZATION

The Commission shall hold regular meetings once each month. They shall attend the same and such special or called meetings as they may provide by rule or the chairman may call. They shall formulate plans and policies for the location, construction and maintenance of a comprehensive system of State highways and public roads. They shall biennially submit a report of their work to the Governor and the legislature, with their recommendations and those of the State Highway Engineer. A quarterly statement containing an itemized list of all moneys received and from what source and of all money paid out and for what purpose shall be prepared and filed in the records of the Department and a copy sent to the Governor. These records shall be open to public inspection. (Acts 1917, p. 416; Acts 1923, p. 325.)

STATE HIGHWAY DEPARTMENT

Art. 6666

ART. 6666. RULES

The Commission shall establish and make public proclamation of all rules and regulations for the conduct of the work of the Department as may be deemed necessary, not inconsistent with the provisions of law. They shall maintain a record of all proceedings and official orders and keep on file copies of all road plans, specifications and estimates prepared by the Department or under its direction. (Acts 1917, p. 416.)

ART. 6669. ENGINEER

The Commission shall elect a State Highway Engineer who shall be a Registered Professional Engineer in the State of Texas and a competent civil engineer, experienced and skilled in highway construction and maintenance. He shall hold his position until removed by the Commission. He shall first execute a bond payable to the State in such sum as the Commission may deem necessary, to be approved by the Commission, and conditioned upon the faithful performance of his duties. He shall act with the Commission in an advisory capacity, without vote, and shall quarterly, annually and biennially submit to it detailed reports of the progress of public road construction and statement of expenditures. He shall be allowed all actual traveling and other expenses therefor, under the direction of the Department, while absent from Austin in the performance of duty under the direction of the Commission. (Acts 1917, p. 416.)

Ref: Bonds. See Art. 6003b, page 110.

STATE HIGHWAY SYSTEM

ART. 6670. STATE ROAD MAP

The Highway Engineer shall cause to be made and kept in form convenient for examination in the office of the Department, a complete road map of the State as represented in the road construction of the various counties, and such map shall be regularly revised as construction proceeds in the different counties. He shall also prepare, under the direction and with the approval of the Commission, a comprehensive plan providing a system of State highways. (Acts 1917, p. 416.)

ART. 6673. CONTROL OF HIGHWAYS

The Commission is authorized to take over and maintain the various State Highways in Texas, and the counties through which said highways pass shall be free from any cost, expense or supervision of such highways. The Commission shall use the automobile registration fees in the State Highway Fund for the maintenance of such highways, and shall divert the same to no other use unless the Commission shall be without sufficient funds from other sources to meet Federal aid to roads in Texas, and in such case the Commission is authorized by resolution to transfer a sufficient amount from such fund to match said Federal aid. (Acts 1923, p. 161; Acts 2nd C.S. 1923, p. 71.)

ART. 6674b. HIGHWAY SYSTEM

All highways in this State included in the plan providing a system of State Highways as prepared by the State Highway Engineer in accordance with Section 11 of Chapter 190 of the General Laws of the Regular Session of the Thirty-fifth Legislature are hereby designated as the "State Highway System." (Acts 1925, 39th Leg., ch. 186, p. 456, § 2.)

Ref: See ART. 6670 above.

STATE HIGHWAY SYSTEM

Art. 6674q-4

ART. 6674q-4. IMPROVEMENTS UNDER CONTROL OF STATE HIGHWAY DEPARTMENT

All further improvement of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature out of the State Highway Fund. Surveys, plans and specifications and estimates for all further construction and improvement of said system shall be made, prepared and paid for by the State Highway Department.. No further improvement of said system shall be made with the aid of or with any moneys furnished by the counties except the acquisition of right-of-ways which may be furnished by the counties, their subdivisions or defined road districts. But this shall in nowise affect the carrying out of any binding contracts now existing between the State Highway Department and the Commissioners Court of any county, for such county, or for any defined road district. In the development of the System of State Highways and the maintenance thereof, the State Highway Commission shall from funds available to the State Highway Department, provide:

(a) For the efficient maintenance of all highways comprising the State System.

(b) For the construction, in co-operation with the Federal Government to the extent of Federal Aid to the state, of highways of durable type of the greatest public necessity.

(c) For the construction of highways, perfecting and extending a correlated system of State Highways, independently from state funds. (Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 3, [formerly § 4], renumbered and amended Acts 1939, 46th Leg., p. 582, § 1; Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

Ref: See ART. 6674c-1, page 26; ART. 6675a-10, page 101.

ART. 6673-c. FARM-TO-MARKET ROADS; DESIGNATION OF COUNTY ROADS AS

Section 1. The State Highway Commission is authorized to designate any county road in the state as a farm-to-market road for purposes of construction, reconstruction, and maintenance only, provided that the Commissioners Court of the county in which any such county road is located shall pass and enter in its minutes an order waiving any rights such county may have for participation by the state in any indebtedness incurred by the county in the construction of such county road; and provided further that the State Highway Commission and the Commissioners Court of the county in which any such road is located may

STATE HIGHWAY SYSTEM

Art. 6673-c

enter into a contract that shall set forth the duties of the state in the construction, reconstruction, and maintenance of the county road in consideration of the county and/or road district relinquishing any and all claims for state participation in any county, road district, or defined road district bonds, warrants, or other evidences of indebtedness outstanding against such road for the construction or improvement of the road before being designated by the State Highway Commission.

Sec. 2. It is hereby declared to be the policy of the state that the assumption by the state of the obligation to construct and maintain such roads designated by the State Highway Commission as farm-to-market roads under the provisions of this Act constitutes full and complete compensation for any and all funds that might have been expended by any county, road district, or defined road district in the construction and maintenance of said road prior to its designation by the State Highway Commission as a farm-to-market road. (Acts 1943, 48th Leg., p. 365, ch. 244.)

Ref: Art. 7083a (4-b), page 103.

ART. 6674w-1, Sec. 1. AUTHORIZATION FOR MODERNIZATION OF HIGHWAY FACILITIES

Section 1. To effectuate the purposes of this Act, the State Highway Commission is empowered to lay out, construct, maintain, and operate a modern State Highway System, with emphasis on the construction of controlled access facilities and to convert, wherever necessary, existing streets, roads and highways into controlled access facilities to modern standards of speed and safety; and, to plan for future highways. The State Highway Commission is further empowered to lay out, construct, maintain and operate any designated State Highway, now or hereafter constructed, with such control of access thereto as is necessary to facilitate the flow of traffic, and promote the Public Safety and Welfare, in any area of the State, whether in or outside of the limits of any incorporated city, town or village, including Home Rule Cities, and to exercise all of the powers and procedures to it granted by existing laws and this Act for the accomplishment of such purposes and the exercise of such powers and duties; provided, however, that in the case of any project involving the bypassing of or going through any county,

STATE HIGHWAY SYSTEM

Art. 6674w-1, Sec. 1

city, town, or village, including Home Rule Cities, the State Highway Commission shall afford the opportunity for not less than one (1) public hearing in the locality before an authorized representative of the State Highway Commission, at which persons interested in the development of the project shall have the opportunity for attendance, discussion and inspection of the design and schematic layout presented and filed with the governing body of such county, city, town or village, including Home Rule Cities, at least seven (7) days before the public hearing, by the State Highway Department. Such hearing shall be held not less than three (3) days nor not more than ten (10) days after the publication in the locality of notice of such hearing. (Acts 1957, 55th Leg., Reg. Session, ch. 300.)

ART. 6674w-5. ADDITIONAL METHODS AND PRECEDENCE OF ACT IN CASES OF CONFLICT

The powers, authority, jurisdiction and procedures granted to the State Highway Department and State Highway Commission in the foregoing Sections of this Act shall be deemed to provide additional powers, authority, jurisdiction, and procedures to those now existing and conferred by the laws of the State of Texas upon the State Highway Department and State Highway Commission and shall not be regarded as in derogation of any powers, authority, jurisdiction, or procedures now existing under the laws of Texas, except that restrictions placed upon the powers, authority, jurisdiction or procedures of the State Highway Department and State Highway Commission by other laws, which are in derogation of, or inconsistent with the powers, authority, jurisdiction and procedures prescribed in the foregoing Sections of this Act or which would tend to hamper or limit the State Highway Department and State Highway Commission in the lawful execution of the powers and authority granted by this Act for the proper accomplishment of its purposes, shall be deemed to have been superseded by the provisions hereof, and, to the extent that any other law is in conflict with or inconsistent with the provisions hereof, the provisions of this Act shall take precedence and be effective.

The powers granted to the State Highway Department and State Highway Commission by this Act to perform acts and exercise powers within the limits of counties, incorporated cities, towns and villages, including Home Rule Cities, may be exercised without the consent or agreement of any such county, city, town or village, including Home Rule Cities, after complying with Subsection 1 of Section 2 hereof, and whenever the

STATE HIGHWAY SYSTEM

Art. 6674w-5

State Highway Department or the State Highway Commission performs any act or exercises any power within the limits of any county, incorporated city, town or village, including Home Rule Cities, as authorized in this Act, such act or exercise of power shall qualify and render **inexclusive** the dominion of such counties, cities, towns or villages, including Home Rule Cities, with respect to the specific streets, alleys, and other public ways affected by such act or exercises of power, but only to the specific extent to which such act or the exercise of such power affects such streets, alleys and other public ways and their use. (Acts 1957, 55th Leg., Reg. Session, ch. 300.)

Ref: Public Hearings. See ART. 6674w-1, Sec. 1, page 7.

BRIDGES AND FERRIES

ART. 6797a. INTERSTATE BRIDGES

Allotment of aid authorized

Section 1. The State Highway Department of the State of Texas is hereby authorized and empowered to make an allotment of aid from any moneys available and to expend funds of said department to acquire, construct and maintain any bridge across or spanning any stream or portion of any stream constituting a boundary between the State of Texas and any other State in an amount not to exceed one half of the amount necessary to acquire, construct or maintain any such bridge, subject to the provisions hereof.

Application

Sec. 2. The provisions of this Act shall not apply in any instance wherein any such State adjoining the State of Texas has not enacted a statute making provisions for the acquirement, construction and maintenance of such bridge as between such State and the State of Texas and for the use of such bridge by the public without charge, nor where such bridge does not connect designated highways of the respective State and the State of Texas.

Agreements with National Government and other states

Sec. 3. The State Highway Department of this State is authorized and empowered by the authority of the Governor to enter into negotiations with, and consummate contracts and agreements with such departments of adjoining States, and with the departments of our National Government, to carry out the purpose of this Act, and in all instances to look to the purpose of furnishing to the traveling public substantial bridges across our State boundaries for its use, without charge.

BRIDGES AND FERRIES

Art. 6797a

Purpose and intent of Act

Sec. 4. It is the purpose and intent of this Act to furnish to the traveling public, bridges across our State Boundary for its use without charge, and to elicit the co-operation of each State adjoining the State of Texas, in enacting a similar statute to this Act and to assent to the provisions of an Act of the Sixty-Fourth Congress of the United States, approved July 11, 1916, and being "An Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes"; and to ask an Act of the Congress of the United States whereby bridges spanning streams which are boundaries between the States and connecting designated highways of such States, may be condemned for public use and travel without charge and to provide the manner of such condemnation and to provide for and make appropriations for acquiring, constructing and the maintenance of such bridges. (Acts 1927, 40th Leg., p. 252, ch. 175.)

Acquisition of bridges across Red River and franchises

Sec. 4-a. In the event the Highway Commissions of the States adjoining the State of Texas are unwilling, or are unable by the provisions of their laws, to join with Texas in acquiring bridges and franchises across Red River: Then in such event the Highway Commission of Texas is authorized to acquire such bridges and franchises as may cross the northern boundary of Texas over Red River, without the joinder of such neighboring States or their Highway Commissions. Provided, however, that in such purchase the replacement value of the physical properties only shall constitute the purchase price, and in no event shall more than Fifty Thousand Dollars (\$50,000) be expended; and provided, further, that the Highway Commission of Texas is hereby authorized only to purchase such bridges as may have owned a right of operation existing for forty (40) years or more prior to the date of this Act. (Added Acts 1935, 44th Leg., p. 641, ch. 256, § 1.)

ART. 6797b. ACCEPTANCE OF FEDERAL AID FOR CONSTRUCTION OF TOLL BRIDGES

Section 1. The provisions and benefits of the Act of Congress authorizing the extension of Federal Aid for construction of toll bridges on highways forming a part of the Federal

BRIDGES AND FERRIES

Art. 6797b

system, under certain conditions and limitations, 44 United States Statutes 1398, approved March 3, 1927, be and the same is hereby accepted; and the State Highway Department of this State is authorized and empowered to cooperate with the Federal Bureau of Roads in the construction of such toll bridges under the provisions of said Act of Congress, including inter-state bridges over streams constituting the boundary line between the State of Texas and an adjoining State; to appropriate and use State Highway Funds for such purpose; to fix, levy and collect such tolls as provided by the said Act of Congress, to the end that such bridges may become free, as contemplated or provided by the said Act of Congress; and to do all such acts and things as may be necessary or proper to give effect to the intent and purpose of this Act.

Sec. 2. This Act shall include inter-state bridges over streams forming the boundary line of the State of Texas and another state and when such bridge or bridges are constructed jointly by the State of Texas and an adjoining State the Highway Commission shall have authority to co-operate and join with the appropriate authorities of such adjoining state in fixing, levying and collecting such tolls to carry out the provisions of this Act and the Act of Congress. (Acts 1929, 41st Leg., p. 382, ch. 173.)

Ref: See Constitution, ART. 3, Sec. 52-b, page 1.

ART. 6797c. REMOVAL OF BRIDGES OBSTRUCTING INTRA-COASTAL WATERWAYS

The State Highway Commission of Texas, at the request of the United States Government, or any of its authorized agents, is hereby authorized, out of any funds available for such purpose, to remove Highway Bridges obstructing the construction of the Intracoastal Waterway of Louisiana and Texas now being dredged by the United States Government, and to replace and maintain such of said Bridges as the State Highway Commission of Texas deems necessary, to be paid for out of any funds available for such purpose. (Acts 1935, 44th Leg., p. 392, ch. 150, § 1.)

BRIDGES AND FERRIES

Art. 6812a

ART. 6812a. FERRIES CONNECTING STATE HIGHWAYS, ACQUISITION BY STATE HIGHWAY DEPART- MENT

Section 1. The State Highway Department is hereby authorized to acquire by purchase, and/or to construct, maintain, operate and control ferries, out of the Highway Fund of the State of Texas, over and across any bay, arm, channel or salt water lake emptying into the Gulf of Mexico, or any inlet of the Gulf of Mexico, any river or other navigable waters of this State where such ferries connect designated State highways, and which may be made self-liquidating or partially self-liquidating by the charging of tolls for the use thereof.

Sec. 2. That the provisions of this Act shall not apply in any instance where any State adjoining the State of Texas has not enacted a Statute making provisions for the acquirement, construction and maintenance of ferries as between such State and the State of Texas, and for the use of such ferries by the public with or without charge as both States may agree, but such ferries must connect designated highways of the adjoining State and the State of Texas. (Acts 1933, 43rd Leg., 1st C.S., p. 228, ch. 87.)

CONTROL OF ACCESS

ART. 1085a. FREEWAYS

Section 1. The State Highway Commission or the governing body of any incorporated city or town, within their respective jurisdictions may do any and all things necessary to lay out, acquire, construct, maintain and operate any section or portion of any State highway or city street as a freeway, and to make any highway or street within their respective jurisdictions a freeway, except that no existing State highway or city street shall be converted into a freeway except with the consent of the owners of abutting lands, or by the purchase or condemnation of their right of access thereto, providing, however, nothing herein shall be construed as requiring the consent of the owners of abutting lands where a State highway, or city street is constructed, established or located for the first time as a new way for the use of vehicular and pedestrian traffic.

Sec. 2. For the purposes of this Act, the State Highway Commission, County Commissioners Courts and the governing bodies of incorporated cities and towns, may acquire the necessary property and property rights by gift, devise, purchase, or condemnation, in the same manner as such governmental agencies are now or hereafter may be authorized by law to acquire such property for State highways and city streets.

Sec. 2a. The governmental agency which holds the title and property rights to land on which a freeway is located may lease for parking purposes the portions of land situated beneath the elevated sections of the freeway. (As Amended, Acts 1965, 59th Leg., Ch. 370, p. 780)

Sec. 3. "Freeway" means a State highway or city street in respect to which the right or easement of access to or from their abutting lands has been acquired in whole or in part from the owners thereof by the State Highway Commission or the governing body of an incorporated city or town as hereinabove provided.

Sec. 4. The State Highway Commission or the governing body of a city or town is authorized to close any highway or street within their respective jurisdictions at or near the point of its intersection with any freeway or to make provisions for carrying any highway or street over or under or to a

CONTROL OF ACCESS

Art. 1085a

connection with the freeway and may do any and all things on such highway or street as may be necessary therefor.

Sec. 5. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. (Acts 1943, 48th Leg., p. 27, ch. 24; Acts 1943, 48th Leg., p. 470, ch. 314, § 1; Acts 1945, 49th Leg., p. 420, ch. 266, § 1; Acts 1949, 51st Leg., p. 779, ch. 419, § 1; Acts 1951, 52nd Leg., p. 144, ch. 86, § 1.)

Ref: See ART 6673b, page 26.

ART. 6674w-1, Sec. 2. CONTROL OF ACCESS

Sec. 2. The State Highway Commission, by proper order entered in its minutes, is hereby authorized and empowered:

(a). To designate any existing or proposed State Highway, of the Designated State Highway System, or any part thereof, as a Controlled Access Highway;

(b). To deny access to or from any State Highway, presently or hereafter designated as such, whether existing, presently being constructed, or hereafter constructed, which may be hereafter duly designated as a Controlled Access Highway, from or to any lands, public, or private, adjacent thereto, and from or to any streets, roads, alleys, highways or any other public or private ways intersecting any such Controlled Access Highway, except at specific points designated by the State Highway Commission; and to close any such public or private way at or near its point of intersection with any such Controlled Access Highway;

(c). To designate points upon any designated Controlled Access Highway, or any part of any such highway, at which access to or from such Controlled Access Highway shall be permitted, whether such **Controlled Access Highway** includes

CONTROL OF ACCESS

Art. 6674w-1, Sec. 2

any existing State Highway or one hereafter constructed and so designated;

(d). To control, restrict, and determine the type and extent of access to be permitted at any such designated point of access;

(e). To erect appropriate protective devices to preserve the utility, integrity, and use of such designated Controlled Access Highway; and,

(f). To modify or repeal any order entered pursuant to the powers herein granted.

Provided, however, that nothing in the foregoing subparagraphs (a) through (f), inclusive, shall be construed to alter the existing rights of any person to compensation for damages suffered as a result of the exercise of such powers by the State Highway Commission under the Constitution and laws of the State of Texas.

Subject to the foregoing limitations any order issued by the State Highway Commission pursuant to such powers shall supersede and be superior to any rule, regulation or ordinance of any department, agency or subdivision of the State or any county, incorporated city, town or village, including Home Rule Cities, in conflict therewith.

No injunction shall be granted to stay or prevent the denial of previously existing access to any State Highway upon the order of the Commission except at the suit of the owner or lessee of real property actually physically abutting on that part of such State Highway to which such access is to be denied pursuant to the Commission's order, and then only in the event that said abutting owner or lessee shall not have released his claim for damages resulting from such denial of access or a condemnation suit shall not have been commenced to ascertain such damages, if any.

Along new Controlled Access State Highway locations, abutting property owners shall not be entitled to access to such new Controlled Access State Highway locations as a matter of right, and any denial of such access shall not be deemed as grounds for special or exemplary damages, except where access to such new Controlled Access State Highway shall

CONTROL OF ACCESS

Art. 6674w-1, Sec. 2

have been specifically authorized by the State Highway Commission to or from particular lands abutting upon such new Controlled Access State Highway in connection with the purchase or condemnation of lands or property rights from such abutting owners to be used in such new Controlled Access State Highway location, and the State Highway Commission thereafter denies access to or from such particular abutting lands to such State Highway at the point where such lands actually abut upon such State Highway. (Acts 1957, 55th Leg., Reg. Session, ch. 300.)

Ref: Public Hearings. See ART. 6674w-1, Sec. 1, page 7.
See also ART. 6674w-5, page 8.

GOVERNMENTAL RELATIONS

FEDERAL

ART. 4341a. CONTRACTS WITH FEDERAL GOVERNMENT; STATE AGENCIES AND SUBDIVISIONS TO FILE COPIES

When an agency or political subdivision of the State government has entered into a contract or agreement with the Federal government, such State agency or political subdivision shall file a copy of such contract or agreement with the Secretary of State for recording. Such State agency shall not encumber or expend any Federal funds received through such contracts or agreements until said copy is filed with the Secretary of State. Provided that copies of research contracts "classified" in the interest of national security shall not be filed, but in lieu thereof a statement that such a contract has been made shall be filed. (Acts 1951, 52nd Leg., p. 94, ch. 60, § 1.)

ART. 6672. FEDERAL AID

Any funds for public road construction in this State appropriated by the Federal Government shall be expended by and under the supervision of the Department only upon a part of the system of State Highways. (Acts 1917, p. 416.)

ART. 6674d. FEDERAL AID

All further improvement of said State Highway System with Federal aid shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature out of the State Highway Fund. The further improvement of said system without Federal aid may be made by the State Highway Department either with or without county aid. Surveys, plans, specifications and estimates for all further improvement of said system with Federal aid or with Federal and State aid shall be made and prepared by the State Highway Department. No further improvement of

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Art. 6674d

Federal

said system shall be made under the direct control of the commissioners' court of any county unless and until the plans and specifications for said improvement have been approved by the State Highway Engineer.

Nothing in this section or this Act shall be construed as prohibiting the granting of State aid under the provisions of Chapter 190, General Laws of the Regular Session of the Thirty-fifth Legislature and subsequent amendments thereto, nor shall anything in this Act prevent the completion of any highway improvement project already begun or the carrying out of any contract for such improvement. (Acts 1925, 39th Leg., ch. 186, p. 456, § 4.)

ART. 6674d-1. FEDERAL AID ON NON-STATE HIGHWAY SYSTEM ROADS

From and after the effective date of this Act, all moneys appropriated by the Congress of the United States and allocated by the Secretary of Agriculture of the United States to the State Highway Department for expenditure on roads not on the system of State Highways, may be expended, by and through the State Highway Department in conjunction with the Bureau of Public Roads, for the improvement of such roads and said Federal funds may be matched, or supplemented by such amounts of State funds as may be necessary for proper construction and prosecution of the work. State funds shall not be used exclusively for the construction of roads not on the System of State Highways, the expenditure of State funds on said roads being limited to cost of construction and engineering, overhead and other costs on which the application of Federal funds is prohibited or impractical. (Acts 1939, 46th Leg., p. 579, § 1.)

Note: Easements to Federal Government. See Art. 5244a-1, page 69; Art. 5244a-3, page 70; Art 5248a-1, page 70.

GOVERNMENTAL RELATIONS

State

Art. 4413(32)

STATE

ART. 4413(32). COOPERATION BY STATE DEPARTMENTS AND AGENCIES

Short title

Section 1. This Act may be referred to as "The Interagency Cooperation Act."

Agency defined

Sec. 2. When used in this Act the word "agency" includes department, board, bureau, commission, court, office, authority, council, institution, university, college, and any service or part of a State institution of higher education.

Authority to contract to furnish services; reimbursement of cost

Sec. 3. Any State agency may enter into and perform a written agreement or contract with other agencies of the State for furnishing necessary and authorized special or technical services, including the services of employees, the services of materials, or the services of equipment. The actual cost of rendering the services, or the nearest estimate of the cost that is practicable, shall be reimbursed, except in case of service rendered in the fields of national defense or disaster relief, or in cooperative efforts, proposed by the Governor, to promote the economic development of the State. Provided, however, nothing herein shall authorize any agency to construct any highway, street, road, or other building or structure for any other agency, except as otherwise specifically authorized by existing law, and, except as to the right of the Texas Highway Department to enter into interagency agreements with any state college or university or public junior colleges providing for the maintenance, improvement, relocation or extension of existing on-campus streets, parking lots and access-ways. Provided, however, no agency shall supply any services, supplies, or materials to another agency which are required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder. (As Amended, Acts 1965, 59th Leg., Ch. 287, p. 564.)

Written agreement or contract

Sec. 4. Before any services may be rendered or received, a written agreement or contract shall be entered into, specifying

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the kinds and amounts of services to be rendered, the bases for calculating reimburseable costs, and the maximum amount of the costs during the time period covered by the agreement. In emergency situations for the defense or safety of the civil population, or in planning and preparation therefore, or in cooperative efforts, proposed by the Governor, for the economic development of the State, or where the amount involved in less than Twenty-five Dollars (\$25), no written contract or advance approval by the Board of Control is required. To be valid, the written agreement or contract must have the advance approval of the administrator of the State agencies which are parties thereto, and of the Board of Control.

Restrictions on contracts; review by Board of Control

Sec. 5. No agreement or contract may be entered into or performed which will require or permit an agency of the State to exceed its constitutional or statutory duties and responsibilities, or the limitations of its appropriated funds. In reviewing proposed agreements or contracts of the character described in this Act, the Board of Control is authorized and directed to consider the following factors, which shall not be construed to be exclusive:

(a) Whether the services specified are necessary and essential for activities and work that are properly within the statutory functions and programs of the affected agencies of the State Government;

(b) Whether the proposed arrangements serve the interests of efficient and economical administration of the State Government; and

(c) Whether the specified bases for reimbursing actual costs are fair, equitable, and realistic and in conformity with the limitations of funds prescribed in the current appropriations act or other applicable statutes.

Payments

Sec. 6. Payments for such services by a receiving agency shall be made from the appropriation items or accounts of the receiving agency from which like expenditures would normally be made, based upon vouchers drawn for this purpose by the receiving agency payable to the furnishing agency. Payments received by the State agency performing the services shall be credited to that State agency's current appropriation items or

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Art. 4413(32)

accounts from which the expenditures of that character were originally made. Payments for intraagency transactions shall be handled in the same manner as interagency transactions or by interdivisional transfer of funds on the records of the agency concerned, subject to the applicable provisions of the biennial appropriations act.

Summary included in board's annual report

Sec. 7. A summary of all such agreements or contracts entered into during any fiscal year by State departments or agencies and aggregating over One Hundred Dollars (\$100), including descriptions of the purposes of the agreements or contracts, names of the State agencies involved, time period covered, and amounts of reimbursement, shall be included in the Board of Control's annual report. (Acts 1953, 53rd Leg., p. 841, ch. 340.)

Ref: See ART. 6674w-3, Sec. 2, page 47.

ART. 6203c-1. CONTRACTS FOR CONSTRUCTION AND PAVING ROADS IN AND ADJACENT TO PRISON SYSTEM LANDS

Section 1. The State Highway Commission and the State Prison Board are hereby authorized to enter into and perform agreements or contracts together for the construction and paving of roads by the State Highway Department in and adjacent to the various prison units of the Texas Prison System.

Sec. 2. All methods, requirements, and procedures necessary to enter into and perform such agreements or contracts, and the payment therefor, shall be in conformity with Chapter 340, Acts of the 53rd Legislature, Regular Session, 1953, known as the Interagency Cooperation Act.

Sec. 3. All laws or parts of laws directly in conflict with this Act are hereby expressly repealed to the extent of such conflict only, but this Act shall be cumulative of all other laws or parts of laws not directly in conflict herewith. (Acts 1955, 54th Leg., p. 563, ch. 180.)

Ref: See ART. 4413(32) above.

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Art. 6674t

State

ART. 6674t. ROADS WITHIN INSTITUTIONS, HOSPITALS AND SCHOOLS

Section 1. The Texas State Highway Department is hereby authorized and empowered, upon request of the Board for Texas State Hospitals and Special Schools or the State Youth Development Council, to enter into agreements or contracts with the Board or with the Council for the construction, maintenance and repair of roads within any of the institutions, hospitals and schools under the control, management or supervision of the Board or the Council.

Sec. 2. The Board for Texas State Hospitals and Special Schools and the State Youth Development Council are hereby authorized to reimburse the appropriate funds of the Texas State Highway Department for the cost of construction and/or maintenance performed under Section 1. Prior to the transfer of any funds, the Board and/or the Council shall notify the Comptroller in writing what funds and what amounts are to be transferred and direct the Comptroller to make the appropriate transfer.

Sec. 3. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares it would have passed the Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional. (Acts 1951, 52nd Leg., p. 309, ch. 187.)

ART. 6069b. CONTRACTS FOR CONSTRUCTION AND PAVING ROADS IN AND ADJACENT TO STATE PARKS

Section 1. The State Highway Commission and the State Parks Board are hereby authorized to enter into and perform agreements or contracts together for the construction and paving of roads by the State Highway Department in and adjacent to the various State Parks.

Sec. 2. All methods, requirements, and procedures necessary to enter into and perform such agreements or contracts, and the payments therefor, shall be in conformity with Chapter 340, Acts of the Fifty-third Legislature, Regular Session, 1953, known as the **Interagency Cooperation Act**.

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Sec. 3. All laws or parts of laws directly in conflict with this Act are hereby expressly repealed to the extent of such conflict only, but this Act shall be cumulative of all other laws or parts of laws not directly in conflict herewith. (Acts 1959, 56th Leg., p. 435, ch. 195.)

ART. 6671. LABORATORIES

The laboratories maintained at the Agricultural and Mechanical College of Texas and at the University of Texas shall be at the disposal and direction of the Highway Engineer for the purpose of testing and analyzing road and bridge material, and those in charge of said laboratories shall co-operate with and assist said Engineer to that end. (Acts 1917, p. 416.)

ART. 2615e. RESEARCH AND EXPERIMENTATION FOR STATE HIGHWAY DEPARTMENT

Sec. 1. The State Comptroller of Public Accounts is hereby authorized to draw proper warrants in favor of any part of the Texas Agricultural and Mechanical College System (University of Texas included by provisions of S. B. 186, Acts 1965, 59th Leg., Ch. 78, page 193.) based on vouchers or claims submitted by said System through the State Highway Department covering reasonable fees and charges for services rendered by members of the Staff of said System to the State Highway Department and for equipment and materials necessary for research and experimentation in all phases of highway activity, economics, materials, specifications, design of roadways, construction, maintenance, pavement and structures, traffic control, safety, the economics of highway design and construction, and such other fields of highway design, construction, maintenance, or operation, based upon an agreement between the State Highway Department and the Texas Agricultural and Mechanical College System as passed by the State Highway Department on September 29, 1948, and recorded by the State Highway Department as Minute Order Number 25396; and the State Treasurer is hereby authorized and directed to pay warrants so issued against any funds appropriated by the Legislature to the State Highway Department for the construction and maintenance of highways, roads, and bridges. Such payments made to said System shall be credited and deposited to local institutional funds under its control. (Acts 1949, 51st Leg., p. 605, ch. 322, § 1.) (Acts 1965, 59th Leg., Ch. 78, p. 193)

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Art. 6667

Counties

COUNTIES

ART. 6667. TO AID ROAD OFFICIALS

The Department shall collect information and compile statistics relative to the mileage, character and condition of the public roads in the different counties, and the cost of construction of the different classes of roads in the various counties. It shall investigate and determine the methods of road construction best adapted to the different sections of the State, and shall establish standards for the construction and maintenance of highways, bridges and ferries, giving due regard to all natural conditions and to the character and adaptability of road building material in the different counties. The Department may, at all reasonable times, be consulted by county and city officials for any information or assistance it can render with reference to the highways within such counties or cities, and it shall supply such information when called for by city or county officials; and it may in turn call upon all such officials for any information necessary for the performance of its duties hereunder. Upon request of the commissioners court of any county, the Department shall consider and advise concerning general plans and specifications for all road construction to be undertaken from the proceeds of the sale of bonds or other legal obligations issued by a county, or by any subdivision or defined district of a county; and such information and advice shall be so obtained before any of the proceeds from such bond issues are expended by or under the direction of the commissioners court. (Acts 1917, p. 416; Acts 1923, p. 325.)

Ref: See ART. 6675a-10, page 101; ART. 6674q-7, page 164.

ART. 6668. QUALIFICATIONS OF ENGINEERS

The Department shall adopt such rules as are found necessary to determine the fitness of engineers making application for highway construction work. Upon the formal application of any county or organized road district thereof, or of any municipality, the Commission may recommend for appointment a civil engineer, and graduate of some first class school of civil engineering, skilled in the knowledge of highway construction and maintenance. (Acts 1917, p. 416; Acts 1923, p. 325.)

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Counties

Art. 6674c-1

ART. 6674c-1. CONTRIBUTIONS FROM COUNTIES OR POLITICAL SUBDIVISIONS FOR ROADS THEREIN

Section 1. Any county, or any other political subdivision of this State, or political subdivision of any county, acting through its governing agency, may make, and the State Highway Commission, in its discretion, may accept, voluntary contributions of available funds from such county, or any other political subdivision of any county for expenditure by the State Highway Commission in the proper development and construction of the public roads and State Highway System within such county, or any other political subdivision of this State, or political subdivision of any county.

Sec. 2. All prior contracts, if any, between such parties wherein such voluntary contributions have been accepted and expended for such development and construction as is herein authorized are hereby validated in all respects.

Sec. 3. All laws or parts of laws in conflict herewith are hereby expressly repealed. (As Amended, Acts 1965, 59th Leg., Ch. 133, p. 301)

Ref: Right of Way. ART. 6673e-1, page 46; ART. 6674w-3, Sec. 2, page 50; ART. 6674n, page 51.

CITIES

ART. 6673-b. CONTRACTS WITH CITIES, ETC., CONCERNING STATE HIGHWAYS

The State Highway Commission is hereby authorized and empowered, in its discretion, to enter into contracts or agreements with the governing bodies of incorporated cities, towns, and villages, whether incorporated under the home rule provisions of the Constitution, Special Charter, or under the General Laws, providing for the location, relocation, construction, reconstruction, maintenance, control, supervision, and regulation of designated State highways within or through the corporate limits of such incorporated cities, towns, and villages, and determining and fixing the respective liabilities

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Art. 6673-b.

Cities

or responsibilities of the parties resulting therefrom; and such incorporated cities, towns, and villages are hereby authorized and empowered, through the governing bodies of such cities, towns, and villages to enter into such contracts or agreements with the State Highway Commission. (Added Acts 1939, 46th Leg., p. 581, § 1.)

Ref: Right of Way. ART. 6673e-1, page 46; ART. 6674w-3, Sec. 2, page 50.

See also ART. 6674w-1, Sec. 1, page 7 and ART. 6674w-5, page 8.

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HIGHWAY CONTRACTS

ART. 6674h. COMPETITIVE BIDS

All contracts proposed to be made by the State Highway Department for the improvement of any highway constituting a part of the State Highway System or for materials to be used in the construction or maintenance thereof shall be submitted to competitive bids. Notice of the time when and place where such contracts will be let and bids opened shall be published in some newspaper published in the county where the improvement is to be done once a week for at least two weeks prior to the time set for the letting said contract and in two other newspapers that the department may designate. Provided, however, that on contracts involving less than Twenty-five Thousand (\$25,000.00) Dollars such advertising may be limited to two successive issues of any newspaper published in the county in which the work is to be done, and if there is no newspaper in the county in which the work is to be done then said advertising shall be for publication in some newspaper in some county nearest the county seat of the county in which the work is to be done. Provided further, that any person, firm or corporation may make application to have the name of said applicant placed upon a mailing list to receive notices of lettings of any contracts provided for herein; and notices of said lettings shall be mailed by the Highway Commission of the State of Texas to all persons, firms or corporations on said mailing list. The Highway Commission shall have the right to require all applicants to deposit with the commission a sum of not exceeding Fifteen (\$15.00) Dollars per year to cover cost of mailing notices. (Acts 1925, 39th Leg., ch. 186, p. 457, § 8; Acts 1933, 43rd Leg., 1st C.S., p. 286, ch. 103, § 1.)

ART. 6674i. OPENING AND REJECTING BIDS

The State Highway Department shall have the right to reject any and all such bids. All such bids shall be sealed, and filed with the State Highway Engineer, at Austin, Texas, and shall be opened at a public hearing of the State Highway Commission. All bidders may attend and all bids to be opened in

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their presence. Copies of all such bids shall be filed with the county in which the work is to be performed. Provided however, on contracts involving less than Twenty-five Thousand (\$25,000.00) Dollars bids may in the discretion of the Highway Commission be received at a public hearing by the Division Engineer at the Division Headquarters. All bids so received by the Division Engineer shall be tabulated and forwarded to the State Highway Commission, shall have the right to accept or reject same, and if accepted, award the contract to the lowest bidder. It shall be the duty of the Highway Commission to prescribe rules and regulations on all bidders on bids received by Division Engineers, but the rules and regulations required by the State Highway Commission for bids received at Austin by said Commission shall not apply to bidders submitting bids to Division Engineers. (Acts 1925, 39th Leg., ch. 186, p. 458, § 9; Acts 1933, 43rd Leg., 1st C.S., p. 286, ch. 103, § 2.)

ART. 6674j. CONTRACTOR'S BOND

The successful bidder or bidders shall enter into written contracts with said department, and shall give bond in such amounts as is now provided by law, conditioned for the faithful compliance with his bid and performance of the contract and payable to the State Highway Department for the use and benefit of the State Highway Fund. (Acts 1925, 39th Leg., ch. 186, p. 458, § 10.)

Ref: Art. 5160, p. 35.

ART. 6674k. FORM OF CONTRACT

The State Highway Commission shall prescribe the form of such contracts and may include therein such matters as they may deem advantageous to the State. Such forms shall be uniform, as near as may be. (Acts 1925, 39th Leg., ch. 186, p. 186, § 11.)

ART. 6674l. SIGNING CONTRACTS

Every such contract for highway improvement under the provisions of this Act shall be made in the name of the State of Texas, signed by the State Highway Engineer, approved by at least two members of the State Highway Commission and signed by the contracting party, and no such contract shall be entered into which will create a liability on the part of the State in

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excess of funds available for expenditure under the terms of this Act. (Acts 1925, 39th Leg., ch. 186, p. 458, § 12.)

Ref: Delegation of authority to sign documents. See ART. 6252-5, § 2(a), page 95.

ART. 6674m. PARTIAL PAYMENTS

Said contracts may provide for partial payments to an amount not exceeding ninety-five per cent (95%) of the value of the work done. Five per cent (5%) of the contract price shall be retained until the entire work has been completed and accepted. (SB 213, Acts 58th Leg., 1963)

WAGES AND HOURS

ART. 6674p. MINIMUM WAGE FOR HIGHWAY LABOR; CITIZENS' PREFERENCE IN EMPLOYMENT

Section 1. Hereafter the State Highway Commission in letting contracts for the construction, maintenance or improvement of any designated State Highway, shall be authorized to require that all contracts for any such work, contain a provision that no person will be employed, by the contractor, to perform manual labor in the course of the construction, maintenance or improvement of any such highway at a wage of less than thirty cents per hour, and that any violation of any such provision of the contract by the contractor, sub-contractor, or other person subject to such provision of the contract, shall authorize the Commission to withhold from any money due the contractor a sufficient sum to pay any person such minimum wage for any labor performed, or the Commission may, for the benefit of any such person, recover such sum on the bond of the contractor, if it does not have in its possession money owing the contractor, applicable for such purposes. That citizens of the United States and of the county wherein the work is being proposed shall always be given preference in such employment; provided also that all other departments, bureaus,

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commissions and institutions of the State of Texas in all construction work of every character requiring employment of day labor shall likewise be authorized and empowered to exercise the same authority herein conferred on the State Highway Commission.

Sec. 2. Hereafter, in advertising for bids for the construction, maintenance or improvement of any designated State Highway, the Commission, in the event it desires to exercise the authority herein conferred to require a provision for such minimum wage, shall so state in the advertisement, so that all bidders may be aware of such requirement in submitting bids for such work. (Acts 1931, 42nd Leg., p. 69, ch. 46.)

ART. 5159a. CONSTRUCTION OF PUBLIC WORKS IN STATE AND MUNICIPAL OR POLITICAL SUBDIVISIONS; PREVAILING WAGE RATE TO BE MAINTAINED

Sec. 1. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of Texas, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the State, engaged in the construction of public works, exclusive of maintenance work. Laborers, workmen, and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State, or any officer or public body thereof, or in the execution of any contract or contracts for public works, with any county, city and county, city, town, district or other political subdivision of this State, or any officer or public body thereof, shall be deemed to be employed upon public works.

Sec. 2. The public body awarding any contract for public work on behalf of the State, or on behalf of any county, city and county, city, town, district or other political subdivision thereof, or otherwise undertaking any public work, shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed for each craft or type of workman or mechanic needed to execute the contract,

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and shall specify in the call for bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the prevailing rate for legal holiday and overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the State, county, city and county, city, town, district or other political subdivision on whose behalf the contract is made or awarded, Ten Dollars (\$10.00) for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its agents and officers, to take cognizance of complaints of all violations of the provisions of this Act committed in the course of the execution of the contract, and, when making payments to the contractor of monies becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this Act; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by the awarding body. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this Act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Sec. 3. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents.

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Sec. 4. Any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the Railroad Commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this Act. The term "locality in which the work is performed" shall be held to mean the county, city and county, city, town, district or other political subdivision of this State in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the State, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, district or other political subdivisions on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. Nothing in this Act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages. (Acts 1933, 43rd Leg., p. 91, ch. 45.)

ART. 1581a PC. PUBLIC WORKS; FAILURE TO COMPLY WITH REGULATIONS AS TO WAGES AND RECORDS

Sec. 5. Any officer, agent or representative of the State, or any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of this Act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him in connection with the said public work, or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this Act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding Five Hundred Dollars (\$500.00), or by imprisonment for not exceeding six (6) months, or by both such fine and imprisonment, in the discretion of the Court.

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Wages and Hours

Sec. 6. If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act, and each section, sentence, clause or part thereof, irrespective of the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional. (Acts 1933, 43rd Leg., p. 91, ch. 45.)

ART. 5165. EIGHT HOURS A DAY'S WORK

Eight hours shall constitute a day's work for all laborers, workmen or mechanics who may be employed by or on behalf of the State of Texas, or by or on behalf of any county, municipality, or political subdivision of the State, county or municipality in any one calendar day, where such employment, contract or work is for the purpose of constructing, repairing or improving buildings, bridges, roads, highways, streams, levees, or other work of a similar character, requiring the service of laborers, workmen or mechanics. (Acts 1913, p. 127.)

Note: Also codified as Art. 1579 PC.

ART. 1580 PC. VIOLATING EIGHT HOUR LAW

All contracts made by or on behalf of the State of Texas, or by or on behalf of any county, municipality or other legal or political subdivision of the State, with any corporation, person or association of persons for performance of any work, shall be deemed and considered as made upon the basis of eight (8) hours constituting a day's work. The time consumed by the laborer in going to and returning from the place of work shall not be considered as part of the hours of work. It shall be unlawful for any corporation, person or association of persons having a contract with the State or any political subdivision thereof, to require or permit any such laborers, workmen, or mechanics to work more than eight (8) hours per calendar day in doing such work, except in cases of emergency, which may arise in times of war, or in cases where it may become necessary to work more than eight (8) hours per calendar day for the protection of property, human life or the necessity of housing inmates of public institutions in case of fire or destruction by the elements or in cases where the total number of hours

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per week required or permitted of any such laborer, workman or mechanic, engaged on work financed in whole or in part by the Federal Government or any agency thereof, does not exceed the number of hours per week allowed by any regulation of the Federal Government or any agency thereof. In such emergencies the laborers, workmen, or mechanics so employed and working to exceed eight (8) hours per calendar day shall be paid on the basis of eight (8) hours constituting a day's work. Not less than the current rate of per hour wages for like work in the locality where the work is being performed shall be paid to the laborers, workmen, mechanics or other persons so employed by or on behalf of the State, or for any county, municipality or other legal or political subdivision of the State, county or municipality, and every contract hereafter made for the performance of work for the State, or for any county, municipality or other legal or political subdivision of the State, county or municipality, must comply with the requirements of this Chapter. (Acts 1913, p. 127; Acts 1921, p. 229; Acts 1935, 44th Leg., p. 644, ch. 259, § 1.)

ART. 1581 PC. PUNISHMENT

Any person, or any officer, agent or employe of any person, corporation or associatinn of persons, or any officer, agent or employe of the State, county, municipality, or any legal or political subdivision of the State, county or municipality, who shall fail or refuse to comply with any provision of this chapter or who shall violate any of its provisions shall be fined not less than fifty nor more than one thousand dollars, or be imprisoned in jail not to exceed six months or both. Each day of such violation shall be a separate offense. (Acts 1913, p. 127.)

BONDS

ART. 5160. PUBLIC CONTRACTORS' BONDS

Contractors' bonds for Performance and Payment for
Labor and Material

A. Any person or persons, firm, or corporation, hereinafter referred to as 'prime contractor,' entering into a formal

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contract in excess of Two Thousand Dollars (\$2,000) with this State, any department, board or agency thereof; or any county of this State, department, board or agency thereof; or any municipality of this State, department, board or agency thereof; or any school district in this State, common or independent, or subdivision thereof; or any other governmental or quasi-governmental authority, whether specifically named herein or not, authorized under any law of this State, general or local, to enter into contractual agreements for the construction, alteration or repair of any public building or the prosecution or completion of any public work, shall be required before commencing such work to execute to the aforementioned governmental authority or authorities, as the case may be, the statutory bonds as hereinafter prescribed. Each such bond shall be executed by a corporate surety or corporate sureties duly authorized to do business in this State. In the case of contracts of the State or a department, board, or agency thereof, the aforesaid bonds shall be payable to the State and shall be approved by the Attorney General as to form. In case of all other contracts subject to this Act, the bonds shall be payable to the governmental awarding authority concerned, and shall be approved by it as to form. Any bond furnished by any prime contractor in an attempted compliance with this Act shall be treated and construed as in conformity with the requirements of this Act as to rights created, limitations thereon, and remedies provided.

(a) A Performance Bond in the amount of the contract conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. Said bond shall be solely for the protection of the State or the governmental authority awarding the contract, as the case may be.

(b) A Payment Bond, in the amount of the contract, solely for the protection of all claimants supplying labor and material as hereinafter defined, in the prosecution of the work provided for in said contract, for the use of each such claimant.

Rights of Persons Furnishing Labor or Material. Notice Required

B. Every claimant who has furnished labor or material in the prosecution of the **work provided for** in such contract in

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which a Payment Bond is furnished as required hereinabove, and who has not been paid in full therefor, shall have the right, if his claim remains unpaid after the expiration of sixty (60) days after the filing of the claim as herein required, to sue the principal and the surety or sureties on the Payment Bond jointly or severally for the amount due on the balance thereof unpaid at the time of filing the claim or of the institution of the suit; provided:

(a) Notices Required for Unpaid Bills, other than notices solely for Retainages as hereinafter described.

Such claimant shall have given within ninety (90) days after the 10th day of the month next following each month in which the labor was done or performed, in whole or in part, or material was delivered, in whole or in part, for which such claim is made, written notices of the claim by certified or registered mail, addressed to the prime contractor at his last known business address, or at his residence, and to the surety or sureties. Such notices shall be accompanied by a sworn statement of account stating in substance that the amount claimed is just and correct and that all just and lawful offsets, payments, and credits known to the affiant have been allowed. Such statement of account shall include therein the amount of any retainage or retainages applicable to the account that have not become due by virtue of terms of the contract between the claimant and the prime contractor or between the claimant and a subcontractor. When the claim is based on a written agreement, the claimant shall have the option to enclose, with the sworn statement of account, as such notice a true copy of such agreement and advising completion or value of partial completion of same.

(1) When no written contract or written agreement exists between the claimant and the prime contractor or between the claimant and a subcontractor, except as provided in subparagraph B (a) (2) hereof, such notices shall state the name of the party for whom the labor was done or performed or to whom the material was delivered, and the approximate dates of performance and delivery, and describing the labor or materials or both in such a manner so as to reasonably identify the said labor or materials or both and amount due therefor. The claimant shall generally itemize his claim and shall accompany same with true copies of documents, invoices or orders sufficient to reasonably identify the labor performed or material

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delivered for which claim is being made. Such documents and copies thereof shall have thereon a reasonable identification or description of the job and destination of delivery.

(2) When the claim is for multiple items of labor or material or both to be paid for on a lump sum basis such notice shall state the name of the party for whom the labor was done or performed or to whom the material was delivered, the amount of the contract and whether written or oral, the amount claimed and the approximate date or dates of performance or delivery or both and describing the labor or materials or both in such a manner so as to reasonably identify the said labor or materials.

(3) When a claimant who is a subcontractor or materialman to the prime contractor or to a subcontractor has a written unit price agreement, completed or partially completed, such notices shall be sufficient if such claimant shall attach to his sworn statement of account a list of units and unit prices as fixed by said contract and a statement of such units completed and of such units partially completed.

(b) Additional Notices Required of Claimants Who Do Not Have a Direct Contractual Relationship With the Prime Contractor.

Excepting an individual mechanic or laborer who is a claimant for wages, no right of action shall be legally enforceable, nor shall any suit be maintained under any provision of this Act by a claimant not having a direct contractual relationship with any prime contractor for material furnished or labor performed under the provisions of this Act unless such claimant has complied with those of the following additional requirements which are applicable to the claim:

(1) If any agreements exist between the claimant and any subcontractors by which payments are not to be made in full therefor in the month next following each month in which the labor was performed or the materials were delivered or both, such claimant shall have given written notice by certified or registered mail addressed to the prime contractor at his last known business address, or at his residence, within thirty-six (36) days after the 10th day of the month next following the commencement of the delivery of materials or the performance

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of labor that there has been agreed upon between the claimant and such subcontractors such retention of funds. Such notice shall indicate generally the nature of such retainage.

(2) Such Claimant shall have given written notice by certified or registered mail as described in the preceding subparagraph B(b) (1) to the prime contractor within thirty-six (36) days after the 10th day of the month next following each month in which the labor was done or performed, in whole or in part, or material delivered, in whole or in part, that payment therefor has not been received. A copy of the statement sent to the subcontractor shall suffice as such notice.

(3) If the basis of the claim is an undelivered specially fabricated item or items as described in paragraph C(b) (2), such claimant shall have given written notice by certified or registered mail as described in the preceding subparagraph B(b) (1) to the prime contractor within forty-five (45) days after the receipt and acceptance of an order for hereinafter described specially fabricated material that such an order has been received and accepted.

(c) Notices of Unpaid Retainages Required. Retainage Defined.

Retainage as referred to in this Act is defined as any amount representing any part of the contract payments which are not required to be paid to the claimant within the month next following the month in which the labor was done or material furnished or both.

When a contract between the prime contractor and such claimant, or between a subcontractor and such claimant provides for retainage, such claimant shall have given, on or before ninety (90) days after the final completion of the contract between the prime contractor and the awarding authority, written notices of the claim for such retainage by certified or registered mail to the prime contractor at his last known business address, or at his home address, and to the surety or sureties. Such notices shall consist of a statement showing the amount of the contract, the amount paid, if any, and the balance outstanding. No claim for such retainage contained in such notices shall be valid to an extent greater than the amount specified in the contract between the prime contractor

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or the subcontractor and the claimant to be retained, and in no event greater than ten per cent (10%) of such contract. However, such notices shall not be required if the amount claimed is part of a prior claim which has been made as heretofore described.

Claimant Defined

C. A claimant is defined as anyone having direct contractual relationship with the Prime Contractor, or with a subcontractor, to perform the work or a part of the work, or to furnish labor or materials or both as a part of the work as follows:

(a) Labor is to be construed to mean labor used in the direct prosecution of the work.

(b) Material is to be construed to mean any part or all of the following:

(1) Material incorporated in the work, or consumed in the direct prosecution of the work, or ordered and delivered for such incorporation or such consumption.

(2) Material specially fabricated on the order of the Prime Contractor or of a subcontractor for use as a component part of said public building, or other public work so as to be reasonably unsuitable for use elsewhere, even though such material has not been delivered or incorporated into the public building or public work, but in such event only to the extent of its reasonable costs, less its fair salvage value, and only to the extent that such specially fabricated material is in conformity and compliance with the plans, specifications, and contract documents for same.

(3) Rent at a reasonable rate and actual running repairs at a reasonable cost for construction equipment, used in the direct prosecution of the work at the project site, or reasonably required and delivered for such use.

(4) Power, water, fuel and lubricants, when such items have been consumed or ordered and delivered for consumption, in the direct prosecution of the work.

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(c) A subcontractor is any person or persons, firm or corporation who has furnished labor or materials or both as defined above to fulfill an obligation to the prime contractor or to a subcontractor to perform and install all or part of the work required by the prime contract.

A subcontractor shall have a claim, but such claim, including previous payments however, shall not exceed that proportion of the subcontract price which the work done bears to the total of the work covered by the subcontract.

(d) When a claim is assigned to a third party then and in that event such third party shall stand in the same position as a claimant, provided the notices required in this Act are given.

Penalty for Fraudulent Claims

D. Any person who shall willfully file a false and fraudulent claim hereunder shall be subject to the penalties for false swearing.

Termination of Contract

E. In the event any contractor, who shall have furnished the bonds provided in this Statute, shall abandon performance of his contract or the awarding authority shall lawfully terminate his right to proceed with performance thereof because of a default or defaults on his part, no further proceeds of the contract shall be payable to him unless and until all costs of completion of the work shall have been paid by him. Any balance remaining shall be payable to him or his surety as their interest may appear, as may be established by agreement or judgment of a court of competent jurisdiction.

Copy of Bonds to be Furnished

F. The contracting authority is authorized and directed to furnish to any person making application therefor who submits an affidavit that he has supplied labor, rented equipment, or materials for such work, or that he has entered into a contract for specially fabricated material, and payment therefor has not been made, or that he is being sued on any such bond, a certified copy of such payment bond and the contract for which it was given, which copy shall be prima facie evidence of the

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contents, execution and delivery of the original. Applicants shall pay for such certified copies such reasonable fees as the contracting authority may fix to cover the actual cost of preparation thereof.

Venue

G. All suits instituted under the provisions of this Act shall be brought in a court of competent jurisdiction in the county in which the project or work, or any part thereof, is situated. No suit shall be instituted on the performance bond after the expiration of one (1) year after the date of final completion of such contract. No suit shall be instituted by a claimant on the payment bond after the expiration of one (1) year after the date suit may be brought thereon under the provisions of Section 1, B. hereof. The State of Texas shall not be liable for the payment of any cost or the expenses of any suit instituted by any party or parties on the payment bond. (Acts 1913, p. 185; Acts 1929, 41st Leg., p. 481, ch. 226, § 1; Acts 1959, 56th Leg., p. 155, ch. 93.)

LIENS

ART. 5472a. LIEN FOR MATERIAL FURNISHED PUBLIC CONTRACTOR

Section 1. Any person, firm, corporation, or trust estate, furnishing any material, apparatus, fixtures, machinery, or labor to any contractor under a prime contract where such prime contract does not exceed the sum of Two Thousand Dollars (\$2,000) for any public improvements in this State, shall have a lien on the moneys, or bonds, or warrants due or to become due to such contractor for such improvements provided such person, firm, corporation, trust estate, or stock association shall before any payment is made to such contractor, notify in writing the officials of the state, county, town, or municipality whose duty it is to pay such contractor of his claim, such written notice to provide and be given within the prescribed time as follows:

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(a) Such notice to be given by certified or registered mail, with a copy to the contractor at his last known business address, or at his residence, and given within thirty (30) days after the 10th of the month next following each month in which labor, material, apparatus, fixtures, or machinery were furnished for such lien is claimed.

(b) Such notice, whether based on a written or oral agreement shall state the amount claimed, the name of the party to whom such was delivered or for whom it was performed, with dates and place of delivery or performance and describing the same in such manner as to reasonably identify said material, apparatus, fixtures, machinery, or labor and the amount due therefor, and identify the project where material was delivered or labor performed.

(c) Such notice shall be accompanied by a statement under oath stating that the amount claimed is just and correct and that all payments, lawful offsets, and credits known to the affiant have been allowed.

(d) Any person who shall file a willfully false and fraudulent notice and statement shall be subject to the penalties for false swearing.

Sec. 3. Articles 5161, 5162, 5163 and 5164 of Revised Civil Statutes of Texas, 1925, are hereby repealed; however, the rights, duties and obligations of parties arising under or incidental to bonds executed prior to the effective date of this Act shall continue to be governed by the law heretofore applicable to bonds for public works. (Acts 1925, 39th Leg., ch. 17, p. 44, § 1; Acts 1959, 56th Leg., p. 159, ch. 93.)

ART. 5472b. RETENTION OF FUNDS

That no public official, when so notified in writing, shall pay all of said moneys, bonds or warrants, due said contractor, but shall retain enough of said moneys, bonds or warrants to pay said claim, in case it is established by judgment in a court of proper jurisdiction. (Acts 1925, 39th Leg., ch. 17, p. 44, § 2.)

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ART. 5472b-1. BOND FOR RELEASE OF LIEN

Sec. 1. That whenever any claim or claims shall be filed attempting to fix a lien, secured or claimed by any instrument filed under the provisions of Chapter 17, of the General Laws of the State of Texas, passed by the Thirty-ninth Legislature in Regular Session, that the contractor or contractors against whom such claim or claims are made, may file a bond with the officials of the State, county, town or municipality whose duty it is to pay the moneys, bonds or warrants to such contractor or contractors. Said bond shall be double the amount of the claims filed, and shall be payable to the claimant or claimants. It shall be executed by the party filing same as principal, and by a corporate surety authorized under the laws of Texas to execute such bond as surety, and shall be conditioned substantially that the principal and surety will pay to the obligees named, or their assigns, the amount of the claim or claims, or such portion or portions thereof as may be proved to have been liens, under the terms of Chapter 17, General Laws of the State of Texas, passed by the Regular Session of the Thirty-ninth Legislature. The filing of said bond and its approval by the proper official of the State, county, town or municipality, shall release and discharge all liens fixed or attempted to be fixed by the filing of said claim or claims, and the official or officials whose duty it is to pay the moneys, bonds or warrants shall pay or deliver the same to the contractor or contractors or their assigns. Said official shall send by registered mail an exact copy of said bond to all claimants.

Sec. 2. At any time within six months from the date of filing of said surety bond, the party making or holding such claim or claims may sue upon such bond, but no action shall be brought on such bond after the expiration of such period. One action upon said bond shall not exhaust the remedy thereon, but each obligee or assignee of an obligee named therein may maintain a separate suit thereon in any court and in any jurisdiction. If any claimant or claimants in an action establish the fact that they were entitled to a lien under the provisions of Chapter 17 of the General Laws of the State of Texas, passed at the Regular Session of the Thirty-ninth Legislature, and shall recover judgment for not less than the full amount for

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which claim was made, the court shall fix a reasonable attorney's fee in favor of the claimant or claimants, which shall be taxed as part of the costs in the case. The bond provided in Section One of this Act shall also be conditioned that the principal and surety will pay all court costs adjudged against the principal in actions brought by claimant or claimants thereon. (Acts 1929, 41st Leg., 2nd C.S., p. 154, ch. 78.)

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ART. 4346. DEPOSITORY

Except as otherwise specifically provided, all deeds to the State, all liens, mortgages, bonds, notes, and other securities for money given to the State or any officer for the use of the State, contracts involving pecuniary obligations to the State, and all other documents or instruments creating a pecuniary obligation in favor of the State, shall be deposited in the office of the Comptroller, except that all deeds conveying land or interests in land to the State of Texas for highway purposes, shall hereafter be deposited in the offices of the State Highway Department at Austin, Texas. The Comptroller of Public Accounts is hereby directed to transfer to the State Highway Department all deeds and conveyances of land or interests in land to the State of Texas for highway purposes which have heretofore been filed and deposited in the office of the Comptroller of Public Accounts along with all files and filing equipment heretofore used by him in filing and maintaining such records. (As amended Acts 1953, 53rd Leg., p. 587, ch. 229, § 1.)

ACQUISITION

ART. 6673e-1. ACQUISITION OF RIGHTS OF WAY

In the acquisition of all rights of way authorized and requested by the Texas Highway Department, in cooperation with local officials, for all highways designated by the State Highway Commission as United States or State Highways, the Texas Highway Department is authorized and directed to pay to the counties and cities not less than fifty per cent (50%) of the value as determined by the Texas Highway Department of

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such requested right of way, or the net cost thereof, whichever is the lesser amount; provided, that if condemnation is necessary, the participation by the Texas Highway Department shall be based on the final judgment, conditioned that such Department has been notified in writing prior to the filing of such suit and prompt notice is also given as to all action taken therein. Such Department shall have the right to become a party at any time for all purposes, including the right of appeal at any stage of the proceedings.

The various counties and cities are hereby authorized and directed to acquire such right of way for such highways as are requested and authorized by the Texas Highway Department, as provided by existing laws, and in the event condemnation is necessary, the procedure shall be the same as that set out in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of Texas, and amendments thereto.

Upon delivery to the Texas Highway Department of acceptable instruments conveying to the State the requested right of way, the Texas Highway Department shall prepare and transmit to the Comptroller of Public Accounts vouchers covering the reimbursement to such county or city for the Department's share of the cost of providing such right of way, and the Comptroller of Public Accounts is hereby authorized and directed to issue warrants on the appropriate account covering the State's obligations as evidenced by such vouchers.

The Texas Highway Department is authorized and directed to acquire by purchase, gift or condemnation all right of way necessary for the National System of Interstate and Defense Highways. (Acts 1957, 55th Leg., Reg. Session, ch. 301.)

ART. 6674w-3. ACQUISITION OF PROPERTY

In addition to other powers conferred by law, the following are added, to wit:

Powers of Purchase and Condemnation for Highway Purposes

Section 1. (a) Any land in fee simple or any lesser estate or interest therein; any property rights of any kind or character including, but not limited to, rights of ingress and egress and reservation rights in land which restrict or prohibit the

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adding of new, or addition to or modification of existing improvements on such land, or subdividing the same; and any timber, earth, stone, gravel, or other material; which the State Highway Commission may in its judgment determine to be necessary or convenient to any State Highway to be constructed, reconstructed, maintained, widened, straightened or lengthened including, but not limited to, any land, property rights or materials deemed by the State Highway Commission necessary or convenient for the purpose of protecting any State Highway; draining any State Highway; diverting streams or rivers or any other watercourse from the right of way of any State Highway; storing materials and equipment used in the construction and maintenance of State Highways; constructing and operating warehouses and other buildings and facilities used in connection with the construction, maintenance, and operation of State Highways; laying out, construction, and maintenance of roadside parks; and any other purpose related to the laying out, construction, improvement, maintenance, beautification, preservation and operation of State Highways, may be purchased by the State Highway Commission in the name of the State of Texas, on such terms and conditions and in such manner as the Highway Commission may deem proper.

(b) Any land or any estate or interest therein; any property rights of any kind or character including, but not limited to, rights of ingress and egress, and reservation rights in land which restrict or prohibit for any period of time not to exceed seven (7) years the adding of new, or addition to or modification of existing improvements on such land, or subdividing or resubdividing same; and any timber, earth, stone, gravel, or other material; which the State Highway Commission may in its judgment determine to be necessary or convenient to any State Highway to be constructed, reconstructed, maintained, widened, straightened or lengthened including, but not limited to, any land, property rights or materials deemed by the State Highway Commission necessary or convenient for the purpose of protecting any State Highway; draining any State Highway; diverting streams or rivers or any other watercourse from the right of way of any State Highway; and any other purpose related to the laying out, construction, improvement, maintenance, and operation of State Highways, may be acquired by the exercise of the power of **Eminent Domain** by the State

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Highway Department in the name of the State of Texas in the manner hereinafter provided.

The purchase or power of Eminent Domain being hereby authorized is granted regardless of the location of any such land, property rights, or materials to be acquired, whether within or without the confines of any incorporated city, town or village, whether same are incorporated under general or special laws, including Home Rule Cities.

In the prosecution of any condemnation suit brought by the State Highway Commission in the name of the State of Texas for the acquisition of property pursuant to the powers granted in this Act, the Attorney General, at the request of the State Highway Commission, or, at the Attorney General's direction, the applicable County or District Attorney or Criminal District Attorney, shall bring and prosecute the suit in the name of the State of Texas and the venue of any such suit shall be in the county in which the property or a part thereof is situated.

In the exercise of the powers of Eminent Domain herein conferred, the State Highway Department shall be subject to the laws and procedures prescribed by Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of Texas, 1925, as said Articles or said Title have been or may be from time to time amended, and shall be entitled to condemn the fee or such lesser estate or interest as it may specify in any statement or petition in any condemnation proceeding filed by it pursuant to such powers; provided however, that any statement or petition in condemnation brought by the State Highway Department pursuant hereto shall exclude from the estate sought to be condemned all the oil, gas and sulphur which can be removed from beneath the land condemned without any right whatever remaining to the owners of such oil, gas and sulphur of ingress or egress to or from the surface of the land condemned for the purpose of exploring, developing, drilling or mining of the same; and further provided, that none of the powers granted herein shall be a grant to the State Highway Commission for the purpose of condemning property which is used and dedicated for cemetery purposes pursuant to Articles 912a-10 et seq., Vernon's Revised Civil Statutes of Texas.

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State and Other Public Lands

Sec. 2. The governing body of every county, city, town, village, political subdivision or public agency is hereby authorized without any form of advertisement to make conveyance of title or rights and easements, owned by any such body, to any property needed by the State Highway Commission to effect its purposes in connection with the construction or operation of the State Highway System.

Whether purchased or condemned by the State Highway Commission, the lands, property rights and materials which are purchased or condemned may also include those belonging to the public, whether under the jurisdiction of the State or any department or agency thereof, county, city, town, village, including Home Rule Cities, or other entity or subdivision thereof.

The State of Texas hereby consents to the use of all lands owned by it, including lands lying underwater, which are deemed by the State Highway Commission to be necessary for the construction or operation of any State Highway; provided, however, that nothing herein shall be construed as depriving the School Land Board of authority to execute leases in the manner authorized by law for the development of oil, gas and other minerals on State-owned lands adjoining any such State Highway, or in tidewater limits, and to this end such leases may provide for directional drilling from such adjoining land and tidewater area. The State Highway Commission shall advise, and make arrangements with, the State Department or agency having jurisdiction over such lands to accomplish such necessary purposes. Any such State Department or agency is hereby directed to cooperate with the State Highway Department in this connection, and as to any such department or agency not expressly authorized to act through some designated representatives, express authority is hereby granted to such department or agency to do whatever acts are necessary hereunder by and through the Chairman of its Board, Department Head, or Executive Director, whether appointed or elected, whichever may be appropriate.

If the land, property rights, or material to be acquired by the State Highway Department are of such a nature that its acquisition under the provisions of this Act will deprive any such department or agency of the State of a thing of value to

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such department or agency in the exercise of its lawful functions, then adequate compensation therefor shall be made, based upon vouchers drawn for this purpose payable to the furnishing department or agency. Payments received by the furnishing department or agency shall be credited to that department's or agency's current appropriation items or accounts from which the expenditures of that character were originally made, or if no such items or accounts from which the expenditures of that character were originally made, or if no such item or account exists, then to an account of such department or agency determined to be appropriate thereto by the Comptroller of Public Accounts.

In the event, but only in the event, the Highway Department and such other department or agency are unable to agree upon adequate compensation, then the Board of Control shall determine the fair, equitable and realistic compensation to be paid. (Acts 1957, 55th Leg., Reg. Session, ch. 300.)

Ref: Public Hearings. See ART. 6674w-1, Sec. 1, page 7.
ART. 6674w-5, page 8.
Payment. ART. 6674w-2, page 93; ART. 6673e-2, page 103.
Exchange. See ART. 6673a, page 72.
See Also ART. 6673e-1, page 46; Constitution, ART. 1, Sec. 17, page 1.

ART. 6674n. CONDEMNATION OF RIGHT OF WAY AND MATERIALS BY COMMISSIONERS' COURT

Whenever, in the judgment of the State Highway Commission, the use or acquisition of any land for road, right of way purposes, timber, earth, stone, gravel or other material is necessary or convenient to any road to be constructed, reconstructed, maintained, widened, straightened or lengthened, or land not exceeding one hundred (100) feet in width for stream bed diversion in connection with the locating, relocating or construction of a designated State Highway by the State Highway Commission, the same may be acquired by purchase or condemnation by the County Commissioners Court. This authority includes the power to exercise the right of eminent domain by any County Commissioners Court within the boundaries of a municipality with the prior consent of the governing body of such municipality. Provided that the county in which the State highway is located may pay for same out of the County Road and Bridge Fund, or any available county funds.

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Acquisition

Any Commissioners Court is hereby authorized to secure by purchase or by condemnation on behalf of the State of Texas, any new or wider right of way or land not exceeding one hundred (100) feet in width for stream bed diversion in connection with the locating, relocating or construction of a designated State Highway, or land or lands for material or borrow pits, to be used in the construction, reconstruction or maintenance of State Highways and to pay for the same out of the County Road and Bridge Fund, or out of any special road funds or any available county funds. This authority includes the power to exercise the right of eminent domain by any County Commissioners Court within the boundaries of a municipality with the prior consent of the governing body of such municipality. The State Highway Commission shall be charged with the duty of furnishing to the County Commissioners Court the plats or field notes of such right of way or land and the description of such materials as may be required, after which the Commissioners Court may, and is hereby authorized to purchase or condemn the same, with title to the State of Texas, in accordance with such field notes. Provided that in the event of condemnation by the County the procedure shall be the same as that set out in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of Texas, of 1925. Provided that if the County Commissioners Court of any County in which such right of way is, in the judgment of the State Highway Commission, necessary for the construction of a part of a designated State Highway shall fail or refuse to secure by purchase or by condemnation for or on behalf of the State of Texas, such right of way or part thereof, immediately and as speedily as possible, under said Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of Texas, of 1925, after being served with a copy of an order of the State Highway Commission identifying by field notes, the part of the Highway necessary for the construction of such designated State Highway and requesting such County Commissioners Court to secure same, then and in such event and within ten (10) days after the service of such notice, said State Highway Commission shall direct the Attorney General of Texas, to institute condemnation proceedings in the name of the State of Texas, for the purpose of securing such right of way. Such condemnation proceedings shall be instituted by the County or District Attorney of the County in which the land is situated and the venue of such proceedings shall be in the county in which the land is situated and jurisdiction and authority to appoint three (3) disinterested freeholders of such County as Commissioners is

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hereby conferred upon the County Judge of such County in which the land is situated and otherwise such condemnation shall be according to the provisions of said Title 52, Article 3264 to 3271, inclusive, Revised Civil Statutes of Texas, 1925, as amended. (As amended Acts 1955, 54th Leg., p. 1128, ch. 423, § 1.)

Ref: See ART. 6673e-1, page 46.

EMINENT DOMAIN

ART. 3264. PROCEDURE

The exercise of the right of eminent domain shall in all cases be governed by the following rules:

Sec. 1. When real estate is desired for public use by the State or by a county, or a political subdivision of a county, or by a city or town, or by the United States Government, or by a corporation having the right of eminent domain, or by an irrigation district, water improvement district, or a water power control district created by authority of law, the party desiring to condemn the property after having failed to agree with the owner of the land on the amount of damages shall file a statement in writing with the county judge of the county in which the land or a part thereof is situated. It shall describe the land sought to be condemned, state the purpose for which it is intended to be used, the name of the owner, if known, and that the plaintiff and the owner have been unable to agree upon the value of the land or the damages. Where the land lies in two or more counties, in one of which the owner resides, the statement shall be filed in the county of the owner's residence. (As amended Acts 1934, 43rd Leg., 2nd C.S., P. 89, ch. 37, § 1.)

2. When such statement is filed with the county judge, he shall, either in term time or vacation, appoint three disinterested freeholders of said county as special commissioners to assess said damages, giving preference to those that may be agreed upon between the parties.

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3. The commissioners shall be sworn to assess said damages fairly and impartially and in accordance with law.

4. The commissioners shall promptly set a time and place for hearing the parties, and the day appointed shall be the earliest practicable day, and the place selected shall be as near as practicable to the property in controversy or at the county seat of the county in which the property is situated.

5. Notice in writing shall be issued by the commissioners to each of the parties interested, notifying them of the time and place selected for the hearing.

6. The notices shall be served upon the parties at least ten (10) days before the day set for the hearing, exclusive of the day of the service, and may be served by any person competent to testify, by delivering a copy of such notice to the party, his agent or attorney. (As amended by Acts, 1961, 57th Leg., Reg. Session, ch. 105, p. 203.)

7. When the property sought belongs to the estate of a deceased person or a minor, or other person laboring under disability, and the estate has a legal representative, the notice shall be served upon such representative.

8. When the property belongs to a non-resident of the State, or if the owner is unknown, or if the residence of the owner is unknown, or the owner secretes himself so that the process of law cannot be served upon him, such notice may be served by publication in the manner provided for such service of citation by publication in other civil cases in the district or county court. When the owner is a non-resident of the State the notice may be served as provided in paragraph six hereof.

9. The person serving notice shall return the original to the commissioners on or before the day set for the hearing, with his return in writing thereon, stating how and when it was served.

10. When service of notice has been perfected, the commissioners shall at the time and place appointed or at any other time and place to which the hearing may be adjourned, proceed to hear the parties.

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11. Commissioners shall have the power to compel the attendance of witnesses and production of testimony, administer oaths, and punish for contempt as fully and in the same manner as is provided by law for judges of the county courts.

ART. 3265. RULE OF DAMAGES

1. The Commissioners shall hear evidence as to the value of the property sought to be condemned and as to the damages which will be sustained by the owner, if any, by reason of such condemnation and as to the benefits that will result to the remainder of such property belonging to such owner, if any, by reason of the condemnation of the property, and its employment for the purpose for which it is to be condemned, and according to this rule shall assess the actual damages that will accrue to the owner by such condemnation.

2. When the whole of a tract or parcel of a person's real estate is condemned, the damages to which he shall be entitled shall be the market value of the property in the market where it is located at the time of the hearing.

3. When only a portion of a tract or parcel of a person's real estate is condemned, the commissioners shall estimate the injuries sustained and the benefits received thereby by the owner; whether the remaining portion is increased or diminished in value by reason of such condemnation, and the extent of such increase or diminution and shall assess the damages accordingly.

4. In estimating either the injuries or benefits, as provided in the preceding article, such injuries or benefits which the owner sustains or receives in common with the community generally and which are not peculiar to him and connected with his ownership, use and enjoyment, of the particular parcel of land, shall not be considered by the commissioners in making their estimate.

5. When the commissioners have assessed the damages, they shall reduce their decision to writing, stating therein the amount of damages due the owner, if any be found to be due, and shall date and sign such decision and file it together with all other papers connected with the case promptly with the county judge.

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ART. 3266. GENERAL PROVISIONS

1. When the county judge is disqualified to act in the case, and the parties fail to agree upon a special judge, he shall certify such disqualification upon the petition or statement filed with him, and file it with the county clerk, who shall make a certified copy thereof and of the endorsement thereon and forward the same to the Governor, who shall appoint some person learned in the law to act as special judge, and such special judge when appointed and qualified, shall proceed with the case to its final conclusion, or the parties may agree upon a special judge.

2. The county judge may appoint other commissioners when one or more of those appointed shall fail to serve.

3. Commissioners shall receive for their services an amount fixed by the Commissioners Court, who shall set the fee of the commissioners at any amount they may deem reasonable, but not less than Five Dollars (\$5) for each day they are engaged in the performance of their duties. (As amended Acts 1955, 54th Leg., p. 537, ch. 166, § 1; Acts 1959, 56th Leg., p. 874, ch. 399.)

4. The party seeking to condemn the property shall pay the expense of serving notice upon the owner, but may recover from the owner such expenses when it is decided that the owner shall pay the costs.

5. The commissioners may adjudge the costs against either party, and shall make a statement in writing of all the costs which have accrued and state therein the party against whom such costs have been adjudged, and shall sign such statement and deliver it with the other papers.

6. If either party be dissatisfied with the decision, such party may, on or before the first Monday following the 20th day after the same has been filed with the county judge, file his objection thereto in writing, setting forth the grounds of his objection, and thereupon the adverse party shall be cited and the cause shall be tried and determined as in other civil causes in the county court. In computing the period of time prescribed or allowed by this Subdivision, the last day of the period so computed in to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. (As Amended, Acts 1965, 59th Leg., Ch. 357, p. 766)

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7. If no objections to the decision are filed within the time prescribed by Subdivision 6 of this Article, the County Judge shall cause said decision to be recorded in the minutes of the County Court, and shall make the same the judgment of the court and issue the necessary process to enforce the same. (Ibid).

8. In counties in which the jurisdiction of eminent domain cases is in the district courts or county courts at law, the judges and clerks of said courts shall perform the functions in such proceedings as provided by law for county judges and clerks. (Added Ibid)

ART. 3267. HOW COSTS AWARDED

The costs of the proceedings before the commissioners and in the court shall be determined as follows, to-wit: If the commissioners shall award greater damages than the plaintiff offered to pay before the proceedings commenced, or if objections are filed to the decision in the county court under the provisions of this title, and the judgment of the court is for a greater sum than the amount awarded by the commissioners, then the plaintiff shall pay all costs; but if the amount awarded by the commissioners as damages or the judgment of the county court shall be for the same or less amount of damages than the amount offered before proceedings were commenced, then the costs shall be paid by the owner of the property.

ART. 3268. DAMAGES PAID FIRST

If the plaintiff in the condemnation proceedings should desire to enter upon and take possession of the property sought to be condemned, pending litigation, it may do so at any time after the award of the commissioners, upon the following conditions, to-wit:

1. It shall pay to the defendant the amount of damages awarded or adjudged against it by the commissioners, or deposit the same in money in court, subject to the order of the defendant, and also pay the costs awarded against it.

2. In addition thereto, it shall deposit in said Court a further sum of money equal to the amount of the damages awarded by the Commissioners, and which shall be held, together with the award itself, should it be deposited in Court

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instead of being paid, exclusively to secure all damages that may be awarded or adjudged against the plaintiff; and it shall also execute a bond with two or more good and solvent sureties, to be approved by the Judge of the Court in which such condemnation proceedings are pending, conditioned for the payment of any further costs that may be adjudged against it, either in the Court below or upon appeal. The State, a county, municipal corporation, irrigation district, water improvement district or water power control district created under authority of law, shall not be required to deposit a bond or the amount equal to the award of damages by the Commissioners as provided in Section 2 hereof. (As amended Acts 1930, 41st Leg., 4th C.S., p. 75, ch. 37, § 1; Acts 1934, 43rd Leg., 2nd C.S., p. 89, ch. 37, § 2.)

3. Should it be determined on final decision of the case that the right to condemn the property in question does not exist, the plaintiff shall surrender possession thereof, if it has taken possession pending litigation, and the court shall so adjudge and order a writ of possession for the property in favor of the defendant, and the court may also inquire what damages, if any, have been suffered by the defendant by reason of the temporary possession of the plaintiff, and order the same paid out of the award or other money deposited; provided, that in any case where the award paid the defendant or appropriated by him exceeds the value of the property as determined by the final judgment, the court shall adjudge the excess to be returned to the plaintiff.

If the cause should be appealed from the decision of the county court, the appeal shall be governed by the law governing appeals in other cases; except the judgment of the county court shall not be suspended thereby. (Const. art. 1, sec. 17; Acts 1899, p. 105.)

ART. 3269. PRACTICE IN CASE SPECIFIED

When the State of Texas, or any county, incorporated city, or other political subdivision, having the right of eminent domain, or any person, corporation or association of persons, having such right, is a party, as plaintiff, defendant or intervenor, to any suit in a District Court, in this State, for property or for damages to property occupied by them or it for the purposes of which they or it have the right to exercise

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such power of eminent domain, or when a suit is brought for an injunction to prevent them or it from going upon such property or making use thereof for such purposes, the Court in which such suit is pending may determine the matters in dispute between the parties, including the condemnation of the property and assessment of damages therefor, upon petition of the plaintiff, cross-bill of the defendant or plea of intervention by the intervenor asking such remedy or relief; and such petition, cross-bill of plea of intervention asking such relief shall not be an admission of any adverse party's title to such property; and in such event the condemnor may assert his or its claim to such property and ask in the alternative to condemn the same if he or it fails to establish such claim; and provided that, if injunctive relief be sought, the Court may grant such relief under the Statutes and Rules of Equity, or may, as a prerequisite for denying such relief, require the party seeking condemnation to give such security as the Court may deem proper for the payment of any damages that may be assessed on such party's pleading for condemnation. (Acts 1899, p. 18; Acts 1931, 42nd Leg., p. 413, ch. 245, § 1, Acts 1945, 49th Leg., p. 404, ch. 259, § 1.)

ART. 3270. PROPERTY, HOW CONSTRUED

Except where otherwise expressly provided by law, the right secured or to be secured to any corporation or other plaintiff in this State, in the manner provided by this law, shall not be so construed as to include the fee simple estate in lands, either public or private, nor shall the same be lost by the forfeiture or expiration of the charter, but shall remain subject to an extension of the charter or the grant of a new charter without a new condemnation. (Acts 1861, p. 12.)

Ref: See ART. 6674w-3, Sec. 1 (b), page 48.

ART. 3271. PROPERTY VESTED BY JUDGMENT

Whenever acquired as hereinbefore provided, the judgment of the court shall vest such right in the company acquiring the same. (Acts 1861, page 12.)

ART. 6640. FILING OF LIS PENDENS

Upon the filing of the plaintiff's statement or petition in any eminent domain proceeding, or during the pendency of any suit or action, involving the title to real estate, or seeking to establish any interest or right therein, or to enforce any lien, charge or encumbrance against the same, any party seeking affirmative relief therein, may file a notice of the pendency of such proceeding or suit with the county clerk of each county where

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such real estate, or any part thereof, is situated. Such notice shall be signed by the party filing the same, his agent or attorney, setting forth the number, if any, and style of the cause, the court in which pending, the names of the party thereto, the kind of proceeding or suit and description of the land affected. (Acts 1959, 56th Leg., p. 689, ch. 315.)

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ART. 6674n-1. AGREEMENTS FOR CULTIVATION BY ADJOINING OWNERS OF LAND NOT NEEDED IMMEDIATELY

The Texas Highway Department may enter into written agreements with owners of the lands abutting or adjoining the lands acquired by the Department for right of way for any highway, farm-to-market road, or other roadway in the State Highway System, under the terms of which such owners of abutting or adjoining lands may be authorized to use and cultivate such portions of the right of way as may not be required for immediate use of the Department. The agreements may contain provisions regarding the use, cultivation, construction of improvements, the placement of fences and such other matters as may be mutually agreed to by the Department and the respective owners of the abutting or adjoining lands. Such agreements shall be executed by the owners of the adjoining or abutting lands and the State Highway Engineer or his authorized representative; provided, however, that the Department, by such agreements, may not impair or relinquish the State's right to use such land for right-of-way purposes when it is required for the construction or reconstruction of the road for which it was acquired, nor shall use by adjoining or abutting land owners under such agreement ever be construed as abandonment by the Department of such lands acquired for right-of-way purposes. (Acts 1951, 52nd Leg., p. 795, ch. 439, § 1.)

ART. 5382d. LEASE OF LANDS OF STATE DEPARTMENTS, BOARD AND AGENCIES

Boards for lease

Section 1. There is hereby created Boards for lease of lands owned by any Department, Board or Agency of the State of Texas, which Boards for Lease shall consist of the Commissioner of the General Land Office, who shall be chairman, one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, and the particular president or chairman of the Board or Agency, or head of the Department charged with the responsibility of management or control of lands now owned by, or that may hereafter be owned by, or held in trust for, the use and benefit of said Department, Agency or Board.

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The title of each Board hereby created shall be selected by each Board for Lease at its first meeting after the effective date of this Act. Each Board for Lease shall keep a complete record of all its proceedings. A majority of each Board for Lease shall constitute a quorum for the transaction of business by that particular Board. Each Board for Lease shall select a Secretary who shall be nominated by the Commissioner of the General Land Office and approved by a majority of the particular Board for Lease. (SB 318, Acts 58th Leg., 1963)

Lands which may be leased

Sec. 2. All lands or any parcel of same now owned by, or that may hereafter be owned by, or held in trust for the use and benefit of, a Department, Agency or Board may be leased by the appropriate Board for Lease to any person or persons, firms, or corporations subject to and as provided for in this Act, for the purpose of prospecting or exploring for and mining, producing, storing, caring for, transporting, preserving, selling and disposing of the oil, gas or other minerals.

Survey and subdivision; abstracts of title

Sec. 3. Each Board for Lease is hereby authorized to cause the lands subject to its control to be surveyed or subdivided into such tracts, lots or blocks as will, in its judgment, be most conducive and convenient to facilitate the advantageous sale of oil, gas or mineral leases thereon, and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. Each Board for Lease is further authorized to obtain authentic abstracts of title to all of the lands subject to its control as it may deem necessary, and to take such steps as may be necessary to perfect a merchantable title to such lands.

Placing leases on market; advertisement; bidding

Sec. 4. Whenever in the opinion of the appropriate Board for Lease there shall be such a demand for the purchase of oil, gas or mineral leases on any lot or tract of land subject to the control of the Board as will reasonably insure an advantageous sale, the Board for Lease shall place such oil, gas or mineral leases on the market in such tract or tracts as the

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Board for Lease may designate. The Board for Lease shall insert in at least four daily newspapers in at least three issues of each, thirty days in advance of a sale date, an advertisement to the effect that leases will be offered for sale on a certain date and that lists describing the land to be leased may be obtained from the General Land Office. Bidding shall be by sealed bid, and the bids will be opened at ten o'clock A. M. on the sale date by a majority of the Board for Lease.

Bids

Sec. 5. A separate bid shall be made for each tract offered for lease. No bid shall be accepted which offers a royalty of less than 1/8 of the gross production of oil, gas or other minerals, and no bid shall be accepted which offers a cash bonus of less than Two (\$2.00) Dollars per acre; this minimum bonus and royalty may be increased at the discretion of the Board for Lease. Every bid shall carry the obligation to pay an amount not less than One (\$1.00) Dollar per acre annual rental beginning with the second year of the lease, such amount to be fixed by the Board in advance of the advertisement. The bid shall further name the amount of cash bonus offered in addition to the royalty and rental provided for, and shall be accompanied by cash, or checks collectible in Austin, Texas, payable to the Commissioner of the General Land Office, to cover such amount. The Board may at its discretion fix the rental and royalty and provide for bidding on a basis of the highest cash bonus offered, or it may fix the cash bonus and rental and provide that the bidding shall be on a basis of the highest royalty offered. The Board for Lease shall have the right to reject any and all bids, but unless the Board elects to reject any and all bids, it shall be required to accept the highest bid submitted.

Minutes

Sec. 6. All awards or leases shall be issued by the Commissioner of the General Land Office in accordance with the minutes as approved by the appropriate Board for Lease. The minutes shall show the fact of acceptance of a bid or the rejection of a bid and the approval of the minutes will constitute the approval of the act of acceptance or the act of rejection, as the case may be.

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Term of leases; mineral leases separate

Sec. 7. Leases issued by the Commissioner of the General Land Office shall be for a primary term not to exceed five years and as long thereafter as oil, gas or other minerals covered by such lease is produced therefrom in paying quantities, provided that all leases for minerals, except oil and gas, shall be granted on separate leases and for separate considerations.

Operations subject to laws and orders of regulatory authority

Sec. 8. Operations for drilling or mining oil, gas or other minerals and the production of same under any lease issued under the authority given in this Act shall be subject to all laws of the State of Texas and valid orders made by the Railroad Commission of Texas, or other regulatory authority controlling the development of leases for the production of oil, gas or other minerals, and such other regulations as the appropriate Board for Lease, at its discretion, may adopt.

Rentals and royalties; examination of books, accounts, etc.

Sec. 9. Beginning with the second year of the lease and annually thereafter for each of the following years during the life of said lease, the lessee shall pay the annual rental specified by the Board for Lease unless oil, gas or other minerals are being produced in paying quantities. When royalties paid during any year during the life of the lease equal or exceed the annual rental, no annual rental will be due for the following year; otherwise, there shall be due and payable on or before the anniversary date of said lease the annual rental specified by the Board for Lease less the amount of royalties paid during the preceding year. All rental and royalty payments shall be paid to the Commissioner of the General Land Office at Austin, Texas, and royalty payments shall be paid on or before the 20th day of the month following the month in which the oil, gas or other minerals may be produced. The payments shall be accompanied by sworn statements of the lessee, manager, or other authorized agent showing the gross amount of production since the last report and the market value of same, together with copies of all daily gauges of tanks, gas meter readings, pipe line run tickets and receipts and other checks or memoranda of the amounts produced. The books, accounts, records, and contracts pertaining

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to production, transportation, sale and marketing of the oil, gas or other minerals shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General and the Chairman, President or other member of the appropriate Board for Lease or the representative of either of them. The State shall have a first lien upon all oil, gas or other minerals produced from the area covered by the lease to secure the payment of all unpaid royalty and/or other sums of money that may become due under the lease.

Duty of lessee

Sec. 10. The lessee shall reasonably develop the lease by drilling or mining to such extent as the facts may justify. The lessee shall adequately protect the oil, gas or other minerals under the land covered by the lease from drainage from adjacent lands or leases. Neither the bonus, rentals nor royalties, paid or to be paid under said lease, shall relieve the lessee from such obligations. If oil and/or gas should be produced in paying quantities from a well on land privately owned, which well is within one thousand feet of the area covered by the lease, or in any case where the land covered by the lease is being drained, the lessee shall, within sixty days after such initial production on private land begin in good faith and prosecute diligently the drilling of an offset well on the area covered by his lease. Such offset well shall be drilled to such depth as may be necessary to prevent the undue drainage of the area covered by the lease and the lessee, manager, or driller shall use all means reasonably necessary in a good faith effort to make such offset well produce in paying quantities.

Assignments and relinquishments

Sec. 11. All rights purchased may be assigned. All assignments must be recorded in the county or counties where the area is located and the recorded assignment or a certified copy of same shall be filed in the General Land Office within one hundred days from the date of the first acknowledgment thereof, accompanied by ten cents (10¢) per acre for each acre assigned and a filing fee of One (\$1.00) Dollar; and if not so filed and payment made, the assignment shall not be effective. All rights to any whole tract or to any assigned portion thereof

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may be relinquished to the State at any time by having an instrument of relinquishment recorded in the county or counties where the area is located and filing the recorded relinquishment or certified copy of same in the General Land Office, accompanied by a filing fee of One (\$1.00) Dollar. Such relinquishment shall not have the effect of releasing the lessee from any obligation or liability theretofore accrued in favor of the State.

Forfeiture of leases

Sec. 12. If the owner of the rights acquired under this Act shall fail or refuse to make the payment of any sum due, either as rental on the lease or for royalty on production, within thirty days after it shall become due, or if such owner or his authorized agent should knowingly make any false return or false report concerning production, royalty, or drilling, or if such owner should fail or refuse to drill any offset well or wells in good faith, as required by his lease and the rules and regulations adopted by the appropriate Board for Lease, or if such owner or his agent should refuse the proper authority access to the records and other data pertaining to operations under his lease or if such owner or his authorized agent should knowingly fail to furnish the log of any well within thirty days after production is found in paying quantities, or if any of the material terms of the lease should be violated, such lease shall be subject to forfeiture by the Commissioner of the General Land Office, and when forfeited the area shall again be subject to lease to the highest bidder, under the same regulations controlling the original sale of leases. Forfeitures may be set aside and the lease and all rights thereunder reinstated at any time before the rights of a third party intervene upon satisfactory evidence to the Commissioner of the General Land Office of future compliance with the provisions of this Act and the rules and regulations that may be adopted relative hereto.

Surveys and investigations

Sec. 13. The appropriate Board for Lease is hereby authorized to issue permits for geological, geophysical and other surveys and investigations on lands subject to lease by the Board for Lease, which are not then subject to valid and subsisting leases, for such consideration and under such terms and conditions as said Board for Lease may deem to

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the best interest of the State of Texas, and which will encourage the development of said lands for oil, gas or other minerals. (Acts 1951, 52nd Leg., p. 556, ch. 325.)

Grant of easements for irrigation canals, flumes, ditches; telephone, telegraph, electric power and pipe lines

Sec. 13a. The appropriate board for lease is authorized to grant easements on the land covered by this Act for irrigation canals, laterals, flumes and ditches, telephone, telegraph and electric power lines, and pipe lines for the gathering or transportation of oil, gas, water and other fluids or substances, together with such devices, equipment and appurtenances as may be necessary. Such easements may be granted on such terms and conditions as the board for lease may deem to be in the best interest of the State of Texas. Provided, that the provisions of this Section 13a shall not apply to lands owned by the State of Texas as a part of the penitentiary system nor shall this Act be construed as repealing House Bill No. 330, Acts of the 48th Legislature of the State of Texas, Regular Session, 1943, Chapter 177, page 281, being Article 6203d, Vernon's Texas Civil Statutes, or any amendments thereto. (Added Acts 1955, 54th Leg., p. 670, ch. 239, § 1.)

Filing in General Land Office

Sec. 14. All surveys, files, records, abstracts of title, copies of sale and lease contracts and all other records pertaining to the sale and leases hereby authorized shall be filed in the General Land Office and shall constitute archives thereof.

Sec. 15. All laws and parts of laws in conflict herewith are hereby expressly repealed; provided, however, that the provisions of this Act shall not be construed to apply to those lands dedicated by the Constitution and laws of the State to the Public Free School Funds, the University of Texas, or lands donated to the Board of Regents of the University of Texas, as Trustees, by a will, instrument in writing, or otherwise in trust for a scientific, educational, or other charitable or public purpose, nor to any other land under the control of the Board of Regents of the University of Texas; nor shall the terms of this Act apply to any lands whose title is vested in

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the State for use and benefit of any part of the Texas A & M College System, or to lands under the control of the Board of Directors of the Agricultural and Mechanical College of Texas; nor shall the provisions of this Act apply to land subject to lease under the provisions of Subdivision 3, Chapter 4, Title 86 of the Revised Statutes of the State of Texas, 1925, and amendments thereto commonly known as the "Relinquishment Act"; provided further, that should title to any lands subject to the provisions of the Relinquishment Act be acquired by any Department, Board or Agency of the State, such lands shall not be subject to lease by any Board herein created, but shall be leased in the same manner as is now or may hereafter be provided for the leasing of unsold Public Free School Lands. (Acts 1951, 52nd Leg., p. 556, ch. 325.)

Deposit and expenditure of receipts

Sec. 16. Any amounts received under and by virtue of this Act shall be deposited in the State Treasury to the credit of special funds to be known as the "(appropriate Department, Board or Agency) Special Mineral Fund", which funds are hereby created, and shall be used exclusively for the benefit of the appropriate Department, Board or Agency; provided, however, no money shall ever be expended from these funds except by legislative appropriation and then for the purposes and in the amounts stated in the Act appropriating same. Provided however, that all monies received under the provisions of this Act enuring to the benefit of the Game, Fish and Oyster Commission shall be deposited in the State Treasury to the credit of the "Special Game and Fish Fund".

Expenses of executing law

Sec. 17. The expenses of executing the provisions of this Act shall be paid by warrants drawn by the Comptroller of the State on the State Treasurer, and for that purpose the sum of Ten Thousand (\$10,000.00) Dollars or so much thereof as may be necessary is hereby appropriated for the biennium ending August 31, 1953, out of any monies in the State Treasury not otherwise appropriated, after which time expenses of executing the provisions of this Act shall be paid by warrants drawn by the Comptroller of the State on the State Treasurer against the income from the Special Funds accumulated from leases, rentals, royalties, and other payments. (Acts 1951, 52nd Leg. p. 556, ch. 325)

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Use

ART. 5244a-1. HIGHWAY COMMISSION AUTHORIZED TO GRANT EASEMENTS OR INTERESTS IN LAND TO UNITED STATES FOR FLOOD CONTROL IN COUNTIES NEAR MEXICAN BOUNDARY

Whenever the State of Texas shall be the owner of any land, or interest in land, acquired for use as a right-of-way for any State highway in any County, one or more of the boundaries of which is coincident with any part of the International Boundary between the United States and Mexico, or in any county contiguous to any county of such described class, which is used or proposed to be used as a part of the site for flood control works, constructed or to be constructed by any such county or by the United States of America, for the purpose of controlling the flood waters of any navigable stream of this State, the State Highway Commission is hereby authorized and empowered, upon request by the United States through its proper officers, or upon the request of the County Judge of any such County, to convey to the United States of America, or to any such County, (which has agreed to convey said lands or interest therein to the United States pursuant to an Act of Congress), without monetary consideration therefor, an easement or interest in such land which may be necessary for the construction, operation, and maintenance of such works; and in the event the fee simple title to such lands is not vested in the State and the owner of the fee has executed an easement to such lands for flood control purposes, the Highway Commission is authorized and empowered to join in and assent to such easement. The State Highway Commission is authorized at its discretion to execute the necessary deeds, conveyances, or agreements for the purposes stated, to be signed by the Chairman pursuant to the order of the Commission, and all such conveyances and agreements heretofore made are hereby ratified and confirmed. The Commission may in lieu of the monetary consideration waived herein above, make such reservations and agreements as it deems necessary for the best interests of the State and its highway system, with reference to the alteration, construction, reconstruction, operation and maintenance of such structures and facilities now used, or hereafter to be used, for highway purposes in, upon, or across the lands, or interest therein, desired for flood control purposes. (Acts 1939, 46th Leg., p. 480, § 1.)

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Art. 5244a-3

ART. 5244a-3. CONVEYANCE TO UNITED STATES FOR CIVIL WORKS PROJECTS

Section 1. Conveyances Authorized. Whenever the State of Texas shall be the owner of any land or interest in land, which land or interest therein is under the control of the Texas Highway Department, and which land is used or proposed to be used as a part of the site of a flood control, river and harbor improvement, water conservation, or other civil works project constructed or to be constructed by the United States of America or an agency or instrumentality thereof, the Governor is hereby authorized and empowered, upon the recommendation of the State Highway Commission, or upon request by the United States through its proper officers when supported by the recommendation of the State Highway Commission, to convey to the United States of America or to any political subdivision, agency or instrumentality of this State which is cooperating with the United States in any such project, without monetary consideration therefor, or for a consideration determined by the State Highway Commission, an easement or other interest in such land which may be necessary for the construction, operation, and maintenance of such project.

Sec. 2. When Fee Title Is Not in the State. In the event the fee simple title to such land is not vested in the State and the owner of the fee has executed an easement to such lands for the above purposes, the Governor is authorized and empowered upon the recommendation of the State Highway Commission to join in and assent to such easement by the same instrument or by separate instrument.

Sec. 3. Former Conveyances Ratified. All such conveyances heretofore made by the Governor upon the recommendation of the State Highway Commission for the purposes stated above are hereby ratified and validated. (Acts, 1961, 57th Leg., Reg. Session, ch. 306, p. 664.)

ART. 5248d-1. CONVEYANCE FOR FEDERAL MILITARY INSTALLATIONS

Section 1. Conveyances Authorized. Whenever the State of Texas shall be the owner of any land or interest in land, which land or interest therein is under the control of the Texas Highway Department and is near any Federally owned or operated

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military installation or facility, the Governor is hereby authorized and empowered upon the recommendation of the State Highway Commission or upon request by the United States through its proper officers when supported by the recommendation of the State Highway Commission to convey to the United States of America without monetary consideration therefor, or for a consideration determined by the State Highway Commission, an easement or other interest in such land which may be necessary in connection with the construction, operation, and maintenance of such military installation or facility.

Sec. 2. When Fee Title Is Not in the State. In the event the fee simple title to such land is not vested in the State of Texas and the owner of the fee has executed an easement to such lands for such purposes, the Governor is authorized and empowered upon the recommendation of the State Highway Commission to join in and assent to such easement by the same instrument or by a separate instrument.

Sec. 3. Former Conveyances Ratified. All such conveyances heretofore made by the Governor upon the recommendation of the State Highway Commission for the above purposes are hereby ratified and validated. (Acts, 1961, 57th Leg., Reg. Session, ch. 475, p. 1063.)

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Disposition

Art. 6673a

DISPOSITION

ART. 6673a. SALE OR EXCHANGE AND CONVEYANCE OF ABANDONED ROUTES: CORRECTION DEEDS; TAX EXEMPTION

Sale or exchange; deeds

Section 1. Whenever the State Highway Commission determines that any real property, or interest therein, heretofore or hereafter acquired by the State for highway purposes, is no longer needed for such purposes, and in the case of highway right-of-way it has further determined that such right-of-way is no longer needed for use of citizens as a road, the State Highway Commission may recommend to the Governor that such land or interest therein be sold, and the Governor may execute a proper deed conveying all the State's rights, title and interest in such land. It shall be the duty of the Commission to determine the fair and reasonable value of the State's interest in such land and to advise the Governor thereof. All money derived from such sales shall be deposited in the State Treasury to the credit of the State Highway Fund. Provided further, that where right-of-way property owned by the State was acquired by a city or county and the State Highway Commission determines that said right-of-way property should be sold, such property shall be sold with the following priorities:

- (1) To abutting or adjoining landowners;
- (2) To original grantors, heirs or assigns of the original tract from whence the right-of-way was conveyed; or
- (3) To the general public.

Notice of said sale shall be advertised at least twenty days before the day of sale by having notice thereof published in the English language once a week for three consecutive weeks preceeding such sale in a newspaper in the county in which the real estate is located. Such sale shall be made on a sealed bid basis, and said land shall not be sold for less than the value recommended by the State Highway Commission as provided above.

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Upon recommendation of the State Highway Commission, the Governor may execute a proper deed exchanging any such real property, or interest therein, either as a whole or part consideration, for any other real property, or interest therein, needed by the State for highway purposes.

Provided further, that upon recommendation of the State Highway Commission the Governor may execute a proper deed relinquishing and conveying the State's right, title and interest in such real property as follows:

(a) If title to the State was acquired by donation, convey to the grantor, his heirs or assigns; or if acquired by purchase by a county or city, convey to the county or city, or to the grantor, his heirs or assigns at the request of the county or city.

(b) If the rights and interests conveyed to the State consist only of the right to use such property, and title is not held by the State, convey the State's rights and interests to the owner of the fee in said property.

(c) If title or any interest in such property was acquired and held by a county or city in its own name for use by the State, quit claim to the county or city any interests of the State which might accrue from the State's use of the property; or if there is no record title to such property, quit claim the State's interests, which might accrue from its use of the property, to the county or city wherein such land is located, or to abutting property owners at the request of the county or city.

(d) Quit claim the State's title, rights and interest as necessary to comply with reversionary clauses contained in instruments by which the State's title, rights or interests were acquired.

Correction of error or ambiguity

Sec. 2. In all cases where there is an ambiguity or an error in any instrument by which title to, or any right or interest in, any real property is or has been conveyed to the State of Texas for highway right-of-way purposes because the metes and bounds description of said property is incomplete or incorrect, or for any other reason, and such ambiguity or error is of sufficient consequence to raise doubt as to the

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location or extent of the property conveyed thereby, or results in the acquisition of land or an interest in land not intended to be included therein and not needed for highway purposes, the Governor of this State, upon receipt of a recommendation from the State Highway Commission that he so do, shall execute and deliver, in the name of the State of Texas, a quit claim deed, correction deed or other conveyance deemed necessary to rectify and resolve any such ambiguity or error.

Rights of public utilities

Sec. 4. Whenever any real property owned by the State and sold and conveyed hereunder is being used by a public utility or common carrier having right of eminent domain for right-of-way and easement purposes the sale, conveyance and surrender of possession herein provided for shall be and remain in all things subject to the right and continued use of such public utility or common carrier.

Approval of transfers; rights of way not infringed; expenses

Sec. 5. The Attorney General shall approve all transfers and conveyances under this Act, and in no event shall the right of the State of Texas to full and exclusive right of possession of all retained rights-of-way be infringed or lessened in any manner thereby. All expenses of the State Highway Department incurred under any of these provisions, including the cost of advertising all sales made hereunder, shall be borne by the grantee in the deeds issued hereunder and payment of such expenses shall be a condition precedent to the delivery of such deeds.

Tax exemption of land used for road purposes

Sec. 6. In the event any public road or State highway is located on land in which the fee simple title is not vested in the State or the county wherein such road is located, such land so dedicated and used for such road purpose shall not be assessed for ad valorem taxation, or the fee simple owner required to pay ad valorem taxes thereon for any purpose so long as same is used for such road purpose. It shall be the duty of the Tax Assessor whenever his attention is called thereto by the fee simple owner of lands so used for public road or State highway purposes to note on the assessment

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sheet the amount of land so used. (As amended Acts 1953,
53rd Leg., p. 795, ch. 323, § 1.)

UTILITIES

TELEPHONE AND TELEGRAPH

ART. 1416. TELEGRAPH; PUBLIC WAYS: USE

Corporations created for the purpose of constructing and maintaining magnetic telegraph lines, are authorized to set their poles, piers, abutments, wires and other fixtures along, upon and across any of the public roads, streets and waters of this State, in such manner as not to incommode the public in the use of such roads, streets and waters. (Acts 1874, p. 132; G.L. vol. 8, p. 134.)

Note: Also applies to telephone lines.

ART. 1528c. TELEPHONE COOPERATIVE ACT

Sec. 3. Cooperative, non-profit corporations may be organized under this Act for the purpose of furnishing telephone service in rural areas to the widest practicable number of users of such service; provided there shall be no duplication of service where reasonable adequate telephone service is available.

Sec. 4. Each corporation shall have power:

(11) To construct, maintain and operate telephone lines along, upon, under and across publicly owned lands and public thoroughfares, including all roads, highways, streets, alleys, bridges and causeways, subject, however, to the same restrictions and obligations required of electric transmission cooperatives in House Bill No. 393, Acts of the Fifty-first Legislature, Regular Session. (Acts 1950, 51st Leg., 1st C.S., p. 33, ch. 4.)

Ref: See ART. 1436a, Sec. 1, page 87.

UTILITIES

Art. 1433

Water and Sewage

WATER AND SEWAGE

ART. 1433. WATER; PRIVILEGES

Any water corporation shall have the power to sell and furnish such quantities of water as may be required by the city, town or village where located for public or private buildings or for other purposes; and such corporation shall have the power to lay pipes, mains and conductors for conducting water through the streets, alleys, lanes and squares of any such city, town or village, with the consent of the governing body thereof, and under such regulations as it may prescribe. Such corporation is further authorized to lay its pipes, mains and conductors and other fixtures for conducting water through, under, along, across and over all public roads, streets and waters lying and situated outside the territorial limits of any such city, town, or village in such manner as not to incommode the public in the use of such roads, streets and waters. Any such corporation shall notify the State Highway Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right of way of any State Highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court may, if it so desires, designate the place along the right of way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such corporation, at its own expense, to relocate its lines on a State Highway or county road outside the limits of an incorporated city or town, so as to permit the widening or changing of traffic lanes, by giving thirty (30) days written notice to such corporation and specifying the line or lines to be moved, and indicating the place on the new right of way where such line or lines may be placed. When deemed necessary to preserve the public health, any company or corporation chartered under the laws of this State for the purpose of constructing waterworks or furnishing water supply to any city or town, shall have the right of eminent domain to condemn private property necessary for the construction of supply reservoirs or standpipes for water work. (As amended Acts 1949, 51st Leg., p. 1370, ch. 622, § 1.)

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ART. 1433a. CITY OR TOWN LAYING PIPES, ETC., OUTSIDE ITS LIMITS

Any incorporated city or town, in addition to powers otherwise existing, is authorized to lay its pipes, mains and conductors and other fixtures for conducting water through, under, along, across and over all public roads and waters lying and situated outside the territorial limits of such city or town in such manner as not to incommode the public in the use of such roads. Any such city or town shall notify the State Highway Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right of way of any State Highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court may, if it so desires, designate the place along the right of way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such city or town, at its own expense, to relocate its lines on a State Highway or county road outside the limits of an incorporated city or town, so as to permit the widening or changing of traffic lanes, by giving thirty (30) days written notice to such city or town and specifying the line or lines to be moved, and indicating the place on the new right of way where such line or lines may be placed. (Added Acts 1949, 51st Leg., p. 1370, ch. 622, § 1.)

ART. 1175d. WATER SUPPLY SYSTEMS; EASEMENTS OVER HIGHWAYS IN CERTAIN HOME RULE CITIES

The City Commission of all Home Rule Cities of this State, having a population of not less than thirty-one thousand (31,000) and not more than thirty-two thousand, five hundred (32,500) inhabitants, according to the last preceding Federal Census, shall have and such Cities are hereby granted easements on and over all public highways and county roads in the county in which such City is situated, for the purpose of constructing, laying and maintaining water pipe lines which constitute a part of the water supply system operated by said Cities. Provided, however, that on all State highways such water pipe lines shall be laid at such place and in such manner as may be approved by the State Highway Engineers, and all such water pipe lines to be laid on any county road shall be laid in such manner and as may be approved by the County Engineer of such county;

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provided further, such water pipe lines shall not be laid in any manner that will unreasonably interfere with the use of such highways and public roads. Provided further that such lines shall be laid parallel to and in reasonably close proximity with the outer edge of the right of way of such State highway or public road, except that such lines may be laid across such highway or public road in the manner to be approved by the engineers of the aforesaid; and provided further that said lines shall be laid deep enough under the ground that the said pipe lines will not interfere with the grading or other use required by the Highway Department or the County Commissioners, (Acts 1947, 50th Leg., p. 392, ch. 220, § 1.)

ART. 7927. WATER SUPPLY DISTRICTS; RIGHT OF WAY: ROADS

All districts are hereby given the right of way across all public or county roads, but they shall restore such roads where crossed to their previous condition for use, as near as may be. (Acts 1919, 36th Leg., 2nd C.S., p. 107.)

ART. 7928. WATER SUPPLY DISTRICTS: USE OF ROAD WAYS

Said districts are authorized and empowered to make all necessary levees, bridges, and other improvements across or under any railroad embankments, tracks, or rights of way, or public or private roads or the rights of way thereof, or rivers or other public improvements of other districts, or other such improvements and the rights of way thereof, for the purpose of securing the fresh water supply necessary for said districts. (Acts 1919, 36th Leg., 2nd C.S., p. 107.)

ART. 1434a. WATER SUPPLY OR SEWER SERVICE COR- PORATIONS

Sec. 4. Such Water Supply Corporations shall have the right to purchase, own, hold and lease and otherwise acquire water wells, springs and other sources of water supply, to build, operate and maintain pipe lines for the transportation of water, to build and operate plants and equipment necessary for the distribution of water and to sell water to towns, cities and other political subdivisions of the State of Texas, to private

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corporations and to individuals. Such corporations shall have the right of eminent domain to acquire rights-of-way and shall have the right to use the rights-of-way of the public highways of the State for the laying of pipe lines under supervision of the State Highway Commission.

ART. 7585. WATER WORKS: ROADS AND HIGHWAYS

All persons, associations of persons, corporations, and water improvement or irrigation districts shall have the right to run along or across all roads and highways necessary in the construction of their work, and shall at all such crossings construct and maintain necessary bridges, culverts, or siphons, and shall not impair the uses of such road or highways; provided, that if any public road or highway or public bridge shall be upon the ground necessary for the dam site, reservoir, or lake, it shall be the duty of the commissioners' court to change said road and to remove such bridge that the same may not interfere with the construction of the proposed dam, reservoir, or lake; provided, further, that the expense of making such change shall be paid by the person, association of persons, corporation, water improvement or irrigation district desiring to construct such dam, lake or reservoir. (Acts 1917, 35th Leg., p. 230, § 76.)

ART. 8161b. DRAINAGE DISTRICTS IN COUNTIES OF 150,000 TO 350,000; IMPROVEMENTS ACROSS ROADS AND STREETS

The Commissioners of drainage districts are authorized to construct and maintain drainage improvements along or across any of the public roads or streets of this State in such manner as not to inconvenience the public in the use of the same, with the consent of the Commissioners Court of any county as to public roads under its jurisdiction, the State Highway Commission as to highways under its jurisdiction, and with the consent of the governing body of any municipality as to public roads under its jurisdiction, and under such regulations as the Commissioners Court or such governing body may prescribe. (Acts 1947, 50th Leg., p. 1021, ch. 437.)

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Art. 7573

Oil and Gas

OIL AND GAS

ART. 7573. CORPORATIONS CREATED FOR PURPOSE OF GATHERING, STORING AND IMPOUNDING SALT WATER AND OTHER SUBSTANCES PRODUCED IN OIL AND GAS OPERATIONS

Such corporations, in addition to the general powers conferred by such title upon private corporations, may acquire, own, and operate ditches, canals, pipe lines, levees, reservoirs, and their appliances appropriate for the gathering, impounding or storage of such water, and for the protection of such reservoirs from inflow or damage by surface waters; with further power to condemn lands and rights necessary therefor under like procedure as is provided in condemnation by railroads; and also to cross with their ditches, canals and pipe lines under any highways, canals, pipe lines, railroads, and tram or logging roads; conditioned that the use thereof be not impaired longer than essential to the making of such crossings; provided that, no right is conferred to pass through any cemetery or under any residence, schoolhouse or other public building nor to cross any street or alley of any incorporated city or town without the consent of the authorities thereof. (Acts 1918, 35th Leg., 4th C.S., p. 122, § 1.)

ART. 1497. CORPORATIONS CREATED FOR THE PURPOSE OF STORING, TRANSPORTING, BUYING AND SELLING OIL, GAS, SALT BRINE, ETC.: RIGHT OF CONDEMNATION

Such corporation shall have the right and power to enter upon, condemn and appropriate the lands, right of way, easements and property of any person or corporation. Such corporation shall have the right to lay its pipes and pipe lines across and under any public road or highway, or under any railroad, railroad right of way, street railroad, canal or stream in this State, and to lay its pipes and pipe lines across or along and under any street or alley in any incorporated city or town in this State with the consent and under the direction of the governing body of such city or town. No pipe lines shall be laid parallel with and on any public highway, closer than fifteen feet from the improved section thereof, except with the approval and under the direction of the commissioners court of the county in which such highway is located. Said

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pipes and pipe lines shall be so buried and covered as not to interfere with the use and occupancy of such road, highway, street or alley by the public, or use and occupancy of such railroad or street railroad by the owner or owners thereof. Such pipes or pipe lines shall not pass through or under any cemetery, church or college, school house, residence, business, or storehouse, or through or under any building in this State, except by the consent of the owner or owners thereof. All such pipes and pipe lines, when same shall pass through or over the cultivated or improved lands of another, shall be well buried under ground at least twenty inches under the surface, and such surface shall be properly and promptly restored by such corporation unless otherwise consented to by the owners of such land. When such pipes and pipe lines shall be laid over or along any uncultivated or unimproved lands of another, and such lands shall thereafter become cultivated or improved, such pipes or pipe lines shall be buried by said corporation as herein provided for cultivated lands, within a reasonable time after notice by the owner of such lands, or his agent, to said corporation or any agent thereof. (Acts 1899, p. 202; Acts 1915, p. 259; Acts 1919, p. 272.)

ART. 1436b. USE OF ROADS AND STREETS IN DISTRIBUTION OF GAS

Section 1. Any person, firm or corporation or incorporated city or town engaged in the business of transporting or distributing gas for public consumption shall have the power to lay and maintain pipes, mains, conductors and other facilities used for conducting gas through, under, along, across and over all public highways, public roads, public streets and alleys, and public waters within this State; provided that within the corporate limits of an incorporated city or incorporated town such right shall be dependent upon the consent and subject to the direction of its governing body. Any such person, firm or corporation or incorporated city or town shall notify the State Highway Commission or the Commissioners Court having jurisdiction, as the case may be, when it proposes to lay any such pipes, mains, conductors and other fixtures for conducting gas within the right-of-way of any state highway or county road outside the limits of an incorporated city or incorporated town, whereupon the Highway Commission or the Commissioners Court, if it so desires, may designate the

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place upon the right-of-way where the same shall be laid. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such person, firm or corporation or incorporated city or town at its own expense to relocate its pipes, mains, conductors or other fixtures for conducting gas on a state highway or county road outside the limits of an incorporated city or incorporated town so as to permit the widening or changing of traffic lanes, by giving thirty (30) days written notice to such person, firm or corporation or incorporated city or town and specifying the facility or facilities to be moved and indicating the place on the new right-of-way where such facility or facilities may be placed. Such person, firm or corporation or incorporated city or town shall replace the grade and surface of such road or highway at its own expense.

Sec. 2. If after the effective date of this Act an unincorporated area becomes incorporated, any person, firm or corporation or incorporated city or town which, at the date of such incorporation, has pipes, mains, conductors or other facilities within such area so incorporated, may continue to exercise the rights conferred by Section 1 hereof for ten (10) years after the date of such incorporation without consent but subject to the direction of the governing body.

Sec. 4. If any section, sentence, phrase, clause or any part of any section, sentence, phrase or clause of this Act shall for any reason be held invalid, such decision shall not affect the remaining portions of this Act; and it is hereby declared to be the intention of this Legislature to have passed each section, sentence, phrase, clause, or part thereof, irrespective of the fact that any other section, sentence, phrase or clause or part thereof may be declared invalid. (Acts 1951, 52nd Leg., p. 829, ch. 470.)

ART. 6018. PIPE LINE CARRIERS OF CRUDE OIL DEEMED COMMON CARRIERS

Every person, firm, corporation, limited partnership, joint stock association or association of any kind whatever;

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1. Owning, operating or managing any pipe line or any part of any pipe line within the State of Texas for the transportation of crude petroleum to or for the public for hire, or engaged in the business of transporting crude petroleum by pipe line; or

2. Owning, operating or managing any pipe line or any part of any pipe line for the transportation of crude petroleum, to or for the public for hire, and which said pipe line is constructed or maintained upon, over or under any public road or highway, or in favor of whom the right of eminent domain exists; or

3. Owning, operating or managing any pipe line or any part of any pipe line or pipe lines for transportation to or for the public for hire, of crude petroleum, and which said pipe line or pipe lines is or may be constructed, operated or maintained across, upon, along, over or under the right of way of any railroad, corporation or other common carrier required by law to transport crude petroleum as a common carrier; or

4. Owning, operating or managing or participating in ownership, operation or management, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipe line or pipe lines, or part of any pipe line, for the transportation from any oil field or place of production within this State to any distributing, refining or marketing center or reshipping point thereof, within this State, of crude petroleum bought of others;

Is hereby declared to be a common carrier and subject to the provisions of this law. The provisions of this law shall not apply to those pipe lines which are limited in their use to the wells, stations, plants and refineries of the owner and which are not a part of the pipe line transportation system of any common carrier as above defined; nor shall such provisions apply to any property of such a common carrier which is not a part of or necessarily incident to its pipe line transportation system. (Acts 1917, 35th Leg., p. 48.)

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ART. 6020. POWERS OF COMMON CARRIER: PIPE LINES: PUBLIC ROADS

The right to lay, maintain and operate pipe lines, together with telegraph and telephone lines incidental to and designed for use only in connection with the operation of such pipe lines along, across or under any public stream or highway in this State, is hereby conferred upon all said common carrier pipe lines. Any person, firm, limited partnership, joint stock association, or corporation may acquire such right by filing with said Commission a written acceptance of the provisions of this law expressly agreeing that in consideration of the rights so acquiring it shall be and become a common carrier pipe line, subject to the duties and obligations conferred or imposed by this law. (Acts 1917, 35th Leg., ch. 30, § 3.)

ART. 6021. INJURY TO ROADS CAUSED BY PIPELINES

The right to run pipe lines, telegraph and telephone lines along, across or over any public road or highway can only be exercised upon condition that the traffic thereon be not interfered with, and that such road or highway be promptly restored to its former condition of usefulness, and the restoration thereof to be subject also to the supervision of the commissioners court or other proper local authority. In the exercise of the privileges herein conferred, such pipe lines shall compensate the county or road district, respectively, for any damage done to such public road. Nothing herein shall be construed to grant any pipe line company the right to use any public street or alley of any incorporated or unincorporated city or town, except by express permission from the governing body thereof. (Acts 1917, 35th Leg., p. 48.)

ART. 6022. PIPELINES; EMINENT DOMAIN

Every person, firm, corporation, limited partnership, joint stock association, or association of any kind whatsoever owning, operating or managing any pipe line, or any part of any pipe line within this State for the transportation of crude petroleum that is declared by this title to be a common carrier, shall have the right and power of eminent domain in the exercise of which he, it or they may enter upon and condemn the lands, rights of way, easements and property of any person or corporation necessary for the construction, maintenance or

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operation of his, its or their common carrier pipe line; and shall have the right to lay his, its or their pipes or pipelines under any railroad, railroad right of way, street railroad, canal or stream in this State; and along and under any street or alley in any incorporated city or town in this State with the consent and under the direction of the governing body of such city or town; and across and under any public road, provided that no pipes or pipe lines shall be laid parallel with and on any public highway closer than fifteen feet from the improved section thereof except with the approval and under the direction of the commissioners court of the county in which such public highway is located; and such other rights in the matter of laying pipes and pipe lines as are conferred by Article 1497, subject to the conditions, limitations and restrictions therein stated. (Acts 1919, 36th Leg., p. 273.)

ART. 6320. RAILROADS

Such corporation shall have the right to construct its road across, along, or upon any stream of water, water course, street, highway, plank road, turnpike, or canal when the route of said railway shall intersect or touch; but such corporation shall restore the stream, water course, street, highway, plank road, turnpike, or canal thus intersected or touched, to its former state, or to such state as not to unnecessarily impair its usefulness, and shall keep such crossing in repair. (Acts 1876, p. 147.)

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Art. 1436

Electricity

ELECTRICITY

ART. 1436. GAS, ELECTRIC CURRENT AND POWER CORPORATIONS; RIGHT OF WAY

Such corporation shall have the right and power to enter upon, condemn and appropriate the lands, right of way, easements and property of any person or corporation, and shall have the right to erect its lines over and across any public road, railroad, railroad right of way, interurban railroad, street railroad, canal or stream in this State, any street or alley of any incorporated city or town in this State with the consent and under the direction of the governing body of such city or town. Such lines shall be constructed upon suitable poles in the most approved manner and maintained at a height above the ground of at least twenty-two feet; or pipes may be placed under the ground, as the exigencies of the case may require. (Acts 1911, p. 288.)

ART. 1436a. Section 1. ELECTRIC COOPERATIVES AND CORPORATIONS

Section 1. Corporations organized under the Electric Cooperative Corporation Act of this State, and all other corporations (including River Authorities created by the Legislature of this State) engaged in the generation, transmission and/or the distribution of electric energy in Texas and whose operations are subject to the Judicial and Legislative processes of this State, shall have the right to erect, construct, maintain and operate lines over, under, across, upon and along any State highway or county road in this State, except within the limits of an incorporated city or town; and to maintain and operate existing lines located on such highways and county roads; and to erect, maintain and operate lines over, across and along the streets, alleys and other public property in any incorporated city or town in this State, with the consent and under the direction of the governing body of such city or town. Except as modified or changed by ordinance or regulation in incorporated cities and towns, all lines for the transmission and distribution of electric energy, whether along highways or elsewhere, shall be constructed, operated and maintained, as to clearances, in accordance with the National Electrical Safety Code, as published in March, 1948, by the National

UTILITIES

Electricity

Art. 1436a, Sec. 1

Bureau of Standards, Handbook 30, provided that lines along highways and county roads shall be single pole construction, and provided that at any place where a transmission line crosses a highway or road it shall be at least twenty-two (22) feet above the surface of the traffic lane. Any such corporation shall notify the State Highway Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right-of-way of any State highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court, may, if it so desires, designate the place along the right-of-way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such corporation, at its own expense, to re-locate its lines on a State highway or county road outside the limits of an incorporated city or town, so as to permit the widening of the right-of-way, changing of traffic lanes, improvement of the road bed, or improvement of drainage ditches located on such right-of-way by giving thirty (30) days written notice to such corporation and specifying the line or lines to be moved, and indicating the place on the new right-of-way where such line or lines may be placed. In the event a State highway or county road on which lines have been built passes through or into an unincorporated city or town, which thereafter becomes an incorporated city or town, the corporation owning such lines shall continue to have the right to build, maintain and operate its lines along, across, upon and over the roads and streets within the corporate limits of such city or town for a period of ten (10) years from and after the date of such incorporation, but thereafter only with the consent of the governing body of such city or town, but this provision shall not be construed as prohibiting such city or town from levying taxes and such special charges for the use of the streets as are authorized by Article 7060, Revised Statutes of the State of Texas; and the governing body of such city or town may require any such corporation, at its own expense, to re-locate its poles and lines so as to permit the widening or straightening of streets, by giving to such corporation thirty (30) days notice and specifying the new location for such poles and lines along the right-of-way of such street or streets. (Acts 1949, 51st Leg., p. 427, ch. 228.)

UTILITIES

Art. 1436a, Sec. 1a

Electricity

ART. 1436a. Section 1a. MUNICIPAL ELECTRICITY SYSTEMS

Section 1a. Any incorporated city or town in this State which owns and operates an electric generating plant or operates transmission lines and/or distribution system or systems shall have the right to erect, construct, maintain and operate lines over, under, across, upon and along any state highway or county road in this State, except within the limits of another incorporated city or town; and to maintain and operate existing lines located on such highways and county roads; and to erect, maintain and operate lines over, across and along the streets, alleys and other public property in any other incorporated city or town in this State with the acquiescence or consent and under the regulations of the governing body of such city or town. Except as modified or changed by ordinance or regulation in incorporated cities and towns, all lines for the transmission and distribution of electric energy, whether along highways or elsewhere, shall be constructed, operated and maintained in accordance with the National Electrical Safety Code, as published in March, 1948, by the National Bureau of Standards, Handbook 30, provided that lines along highways and county roads shall be single pole construction, and provided that at any place where a transmission line crosses a highway or road it shall be at least twenty-two (22) feet above the surface of the traffic lane. Any such incorporated city or town authorized to build lines along highways and public roads under this Section shall notify the State Highway Commission or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right-of-way of any state highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court, may, if it so desires, designate the place along the right-of-way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such municipal corporation, at its own expense, to relocate its lines on a State Highway or county road outside the limits of an incorporated city or town, so as to permit the widening of the right-of-way, changing of traffic lanes, improvement of the road bed, or improvement of drainage ditches located on such right-of-way, by giving thirty (30) days' written notice to such municipal corporation owning such lines,

UTILITIES

Relocation

Art. 1436a, Sec. 1a

and specifying the line or lines to be moved, and indicating the place on the new right-of-way where such line or lines may be placed. In the event a State highway or county road on which lines have been built passes through or into an unincorporated city or town, which thereafter becomes an incorporated city or town, the municipal corporation owning such lines shall continue to have the right to build, maintain and operate its lines along, across, upon and over the roads and streets within the corporate limits of such city or town for a period of ten (10) years from and after the date of such incorporation, but thereafter only with the consent of the governing body of such city or town; and the governing body of such city or town may require the municipal corporation owning such lines, at its own expense, to relocate its poles and lines so as to permit the widening or straightening of streets, by giving to the municipal corporation owning such lines thirty (30) days notice and specifying the new location for such poles and lines along the right-of-way of such street or streets. Nothing herein shall be construed as granting the right to such municipal corporation to maintain existing lines in any area, which is included within the corporate limits of another city or town prior to the effective date of this act, without the consent of the governing body of such other city or town. (Acts 1949, 51st Leg., p. 427 ch. 228.)

RELOCATION

ART. 6674w-4. RELOCATION OF UTILITY FACILITIES

Whenever the relocation of any utility facilities is necessitated by the improvement of any highway in this State which has been or may hereafter be established by appropriate authority according to law as a part of the National System of Interstate and Defense Highways, including extensions thereof within urban areas, such relocation shall be made by the utility at the cost and expense of the State of Texas provided that such relocation is eligible for Federal participation. Reimbursement of the cost of relocation of such facilities shall be made from the State Highway Fund to the utility owning such facilities, anything contained in any other provision

UTILITIES

Art. 6674w-4

Relocation

of law or in any permit, or agreement or franchise issued or entered into by any department, commission or political subdivision of this State to the contrary notwithstanding. The term "utility" includes publicly, privately, and cooperatively owned utilities engaged in furnishing telephone, telegraph, communications, electric, gas, heating, water, railroad, storm sewer, sanitary sewer or pipeline service. The term "cost of relocation" includes the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility, and otherwise as may be fixed by regulations for Federal cost participation. It is further provided that by agreement with the affected utility the State Highway Department may relocate such utility facility in accordance with the provisions hereof. (Acts 1957, 55th Leg., Reg. Session, ch. 300.)

ART. 1581f. RELOCATION OF WATER LINES TO COMPLETE FARM-TO-MARKET ROADS

Section 1. The counties of the State of Texas are hereby authorized to pay for the relocation of water lines owned by water control and improvement districts when such relocation is necessary to complete the construction or improvement of Farm-to-Market Roads as defined by Sub-section 4-b of Article XX of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended, provided the water control and improvement district which owns the water lines to be relocated agrees to repay the county for the cost of relocating the water lines within twenty (20) years with interest thereon at a rate equal to that paid by the county on their Road and Bridge Fund time warrants. (Acts, 1962, 57th Leg., Third Called Session, ch. 28, p. 73.)

ART. 6674n-3. RELOCATING UTILITY FACILITIES

Section 1. In the acquisition of all highway rights-of-way by or for the Texas Highway Department, the cost of relocating or adjusting utility facilities which cost may be eligible under the law is hereby declared to be an expense and cost of right-of-way acquisition.

Sec. 2. All contracts or agreements heretofore made and entered into by the various counties and cities for the purposes stated above are hereby ratified and validated. (SB 489, Acts 58th Leg., 1963)

FISCAL

HIGHWAY FUND

ART. 6694. STATE HIGHWAY FUND

All funds coming into the hands of the Commission derived from the registration fees or other sources provided for in this subdivision, as collected, shall be deposited with the State Treasurer to the credit of a special fund designated as "The State Highway Fund," and shall be paid only on warrants issued by the Comptroller upon vouchers drawn by the chairman of the Commission and approved by one other member thereof, such vouchers to be accompanied by itemized sworn statements of the expenditures. (Acts 1917, p. 424.)

Ref: ART. 6252-5, Sec. 2(a), page 95.

EXPENDITURES

ART. 6674. OPERATING EXPENSES

The legislature shall make appropriations for the maintenance and running expenses of the Department, fix the compensation of the Highway Engineer and all other employes of the Department, and determine the number of such employes; and shall fix the compensation of the members of the Commission at not exceeding twenty-five hundred dollars per annum. The Board of Control shall make contracts for equipment and supplies (including seals and number plates) required by law in the administration of the registration of licensed vehicles, and in the operation of said Department. All money herein authorized to be appropriated for the operation of the Department and the purchase of equipment shall be paid from the State Highway Fund, and the remainder of said fund shall be expended by the Commission for the furtherance of public road construction and the establishment of a system of State highways as herein provided. (Acts 1921, p. 102; Acts 1923, p. 325.)

FISCAL

Art. 6674e

Expenditures

ART. 6674e. APPROPRIATIONS FROM HIGHWAY FUND

All moneys now or hereafter deposited in the State Treasury to credit of the "State Highway Fund", including all Federal aid moneys deposited to the credit of said fund under the terms of the Federal Highway Act and all county aid moneys deposited to the credit of said fund under the terms of this Act shall be subject to appropriation for the specific purpose of the improvement of said system of State Highways by the State Highway Department. (Acts 1925, 39th Leg., ch. 186, p. 457, § 5.)

ART. 6674w-2. PAYMENT PROCEDURE

In addition to all existing procedures and methods authorized for the issuance of warrants by the Comptroller of Public Accounts upon the request of the State Highway Department, the following authority is hereby granted:

Upon presentation of a properly executed deed or deeds, the Comptroller of Public Accounts is hereby authorized to issue a State Warrant on the appropriate account as payment of consideration for such land, estate or interest therein. In the event any owner fails or refuses to execute or deliver an executed deed before payment of the consideration, the Comptroller of Public Accounts is hereby authorized to issue a State Warrant on the appropriate account in payment of such consideration, which consideration shall be placed in escrow with any National or State Bank, duly authorized to do business within the State of Texas, which is located in the county of the residence of the owner, the county wherein the land is situated, or in case no such banking facility is available, then in the adjoining county or the nearest available banking facility, to be delivered to the owner upon receipt of the duly and properly executed deed or deeds. In the event the State Highway Department acquires any property through the exercise of the power of Eminent Domain, the Comptroller of Public Accounts is hereby authorized to issue such warrants as the judgment of the Court may decree, as well as such warrants necessary to be deposited into the Court to entitle the State Highway Department, in the name of the State of Texas, to take possession of such property, as the law may provide. (Acts 1957, 55th Leg., Reg. Session, ch. 300.)

Ref: See ART. 6673e-1, page 46.

FISCAL

Expenditures

Art. 6252-5

ART. 6252-5. EXPENDITURES

Boards, bureaus, commissions and agencies of state

Section 1. All expenditures of funds appropriated to the various boards, bureaus, commissions and other agencies of the State of Texas now in existence, or hereafter created shall be made by order of the governing body thereof and the same shall be paid by warrants drawn by the Comptroller of Public Accounts on vouchers approved by the chairman or president of the governing body or by an executive officer, official or employee of such board, bureau, commission or other agency designated by the governing body by order entered on its minutes, if any, and countersigned by the secretary or an executive officer or official designated by the governing body by order entered on its minutes, if any. A certified copy of any such order entered pursuant to the provisions of this Section designating an officer, official or employee to approve and execute or to countersign vouchers, together with a signature card of the person or persons designated, shall be filed with the Comptroller of Public Accounts.

Purchases by Board of Control

Sec. 1. (a) All invoices sent to the State Board of Control for verification, auditing and approval from the various State Agencies, Departments, Commissions and Institutions for goods purchased by the Board of Control as provided by law shall be approved by the Board of Control or by an executive, official or employees designated by the Board of Control.

Notice of such designation shall be given the Comptroller in writing together with a signature card of the person so designated.

Funds appropriated to state departments

Sec. 2. All expenditures of funds appropriated to the various State departments shall be made by the elected or appointed head of the department and the same shall be paid on warrants drawn by the Comptroller of Public Accounts on vouchers approved by such head of the department or by an executive officer, official or employee of the department designated by the head of the department.

FISCAL

Art. 6252-5

Expenditures

Notice of such designation shall be given the Comptroller in writing together with a signature card of the person designated.

State Highway Commission

Sec. 2. (a) By appropriate order, duly recorded in its official minutes, the State Highway Commission may delegate to some employee or employees of the State Highway Department the authority and duty to approve and sign vouchers for expenditures from the State Highway Fund provided same have been verified by affidavit as required by law; likewise the State Highway Commission may delegate to some employee or employees of the State Highway Department the authority and duty to approve and sign contracts, agreements, and other documents; provided that the purpose and effect of any such voucher or other document shall be to activate and/or carry out the orders, established policies, or work programs theretofore approved and authorized by the State Highway Commission. Each order of the State Highway Commission thus delegating said authority to an employee shall include the limitations herein provided. The State Highway Commission may require any employee exercising the powers provided for in this Act to execute a bond, payable to the State, in such sum as the Commission may deem necessary, to be approved by the Commission, and conditioned upon the faithful performance of his duties. The premium on such bond shall be paid from the State Highway Fund.

Application of act

Sec. 3. This Act shall not apply to any board, bureau, commission or other agencies of the State whose governing bodies are now authorized by law to designate executive officers or officials to approve and execute and to countersign vouchers nor to any State department whose head is now authorized by law to designate an executive officer or official of the department to approve and execute vouchers. (Act 1951, 52nd Leg., p. 584, ch. 341.)

FISCAL

Income

Art. 9.01

INCOME

TITLE 122A - TAXATION - GENERAL

CHAPTER 9 -- MOTOR FUEL (GASOLINE) TAX

ART. 9.01. DEFINITIONS

The following words, terms and phrases shall, for all purposes of this Chapter, be defined as follows:

(1) "Motor Fuel" shall mean all products commonly or commercially known or sold as gasoline, including natural, absorption, casinghead and drip gasolines, regardless of their classification or uses.

ART. 9.02. RATE OF TAX

(1) There shall be and is hereby levied and imposed (except as hereinafter provided) upon the first sale, distribution, or use of motor fuel in this State an excise tax of five cents (5¢) per gallon or fractional part thereof so sold, distributed, or used in this State. Every distributor who makes a first sale or distribution of motor fuel in this State for any purpose whatsoever shall, at the time of such sale or distribution, collect the said tax from the purchaser or recipient of said motor fuel, in addition to his selling price, and shall report and pay to the State of Texas the taxes collected at the time and in the manner as hereinafter provided. Every such distributor shall also be liable to the State of Texas for the said tax of five cents (5¢) per gallon on each gallon of motor fuel or fractional part thereof used or consumed by him, and shall report and pay said tax as hereinafter provided. In each subsequent sale or distribution of motor fuel upon which the tax of five cents (5¢) per gallon has been collected, the said tax shall be added to the selling price, so that such tax is paid ultimately by the person using or consuming said motor fuel for the purpose of generating power for the propulsion of any motor vehicle upon the public highways of this State.

It is the intent and purpose of this Article to collect the tax levied herein at the source of said motor fuel in Texas or as soon thereafter as the same may be subject to being taxed.

FISCAL

Art. 9.02

Income

No person, however, shall be required to pay a tax on motor fuel brought into this State in a quantity of thirty (30) gallons or less in a fuel tank, with a capacity of not more than thirty (30) gallons, when said fuel is connected with and feeds the carburetor of said motor vehicle and the motor fuel contained therein is used in the operation of said motor vehicle and not otherwise. (Formerly Art. 7065b-2.)

ART. 9.25. ENFORCEMENT FUND, ALLOCATION OF REVENUE

Before any diversion or allocation of the motor fuel tax collected under the provisions of this Chapter is made, one per cent (1%) of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement of the provisions of this Chapter, and so much of said proceeds of one per cent (1%) of the motor fuel tax paid monthly as may be needed in such administration and enforcement be and is hereby appropriated for said purpose. Any unexpended portion of said fund so specified shall, at the end of each fiscal year, revert (1) to the Highway Motor Fuel Tax Fund, and (2) to the funds prescribed in Section (6a) of Article 9.13, as provided in this Chapter, in proportion to the amounts originally derived from such respective sources. The same shall then be allocated as provided in Article 9.13 of this Chapter and Section (6a) thereof, and in this Article 9.25, in the proportions above prescribed.

Each month the Comptroller of Public Accounts, after making all deductions for exempt refund purposes and for the funds derived from "unclaimed refunds" as provided in Article 9.13 of this Chapter, and for the enforcement of the provisions of this Chapter, shall allocate and deposit the net remainder of the taxes collected under the provisions of this Chapter, as follows: One-fourth (1/4) of such tax shall go to, and be placed to the credit of, the Available Free School Fund; one-half (1/2) of such tax shall go to and be placed to the credit of the State Highway Fund for the construction and maintenance of the State Road System under existing laws; and from the remaining one-fourth (1/4) of such tax the Comptroller shall: (1) place to the credit of the County and Road District Highway Fund an amount determined by the Board of County and District Road Indebtedness and certified by the Board to the Comptroller of

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Income

Art. 9.25

Public Accounts prior to August 31st of each year, for the fiscal year beginning September 1st each year, to be required in addition to any and all funds already on hand, for the payment by the Board of the principal, interest and sinking fund requirements for each year, on all bonds, warrants or other legal evidences of indebtedness heretofore issued by counties or defined road districts of this State, which mature on or after January 1, 1933, insofar as amounts of same were issued for and proceeds have been actually expended in the construction of roads that constituted and comprised a part of the system of designated state highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the System of State Highways and declared by the Board of County and District Road Indebtedness prior to January 2, 1945, to be eligible to participate in the distribution of the moneys in the County and Road District Highway Fund under the provisions of existing laws; (2) for the fiscal year beginning September 1, 1951, and each fiscal year thereafter, the Comptroller shall place to the credit of the Fund known as the County and Road District Highway Fund the sum of Seven Million, Three Hundred Thousand Dollars (\$7,300,000), said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be allocated by the Board of County and District Road Indebtedness to all of the counties of Texas not later than September 15th of each year, through the Lateral Road Account, as provided under Subsection (h) of Section 6 of Chapter 324 of the General and Special Laws of the Forty-eighth Legislature, Regular Session, 1943, as amended by Section 1 of Chapter 319, Acts of the Fiftieth Legislature, 1947; and (3) the Comptroller shall place to the credit of the State Highway Fund the remainder of such one-fourth (1/4) of such tax, said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be used by the State Highway Department for the construction and improvement of Farm-to-Market Roads having the same general characteristics as the roads eligible for construction under Subsection (4b) of Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended. During any fiscal year, under the terms of Subsection (4-b) of Section 2 of Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended, in which there shall be a valid, effective appropriation of Fifteen Million Dollars

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Art. 9.25

Income

(\$15,000,000.00) in the Farm-to-Market Road Fund to the State Highway Department for the purpose of constructing Farm-to-Market Roads, the Highway Department may use up to one-half (1/2) the above remainder for the maintenance of Farm-to-Market Roads.

All receipts due the Available School Fund which are in the Highway Motor Fuel Tax Fund on August 31st of each fiscal year shall be credited to the Available School Fund on August 31st of each fiscal year. (As amended, Acts, 1962, 3rd Called Session, ch. 2, p. 2.)

FISCAL

Art. 10.02

Income

CHAPTER 10 - SPECIAL FUELS TAX

ART. 10.02. DEFINITIONS

The following words and terms, as used in this Chapter, are defined as follows unless the context clearly indicates a different meaning:

(1) "Special fuels" means all combustible gases and liquids suitable for the generation of power for the propulsion of motor vehicles, including "liquefied gas" and "distillate fuel" as defined in (2) and (3) hereinbelow, except that the term "special fuels" shall not include "motor fuel" as defined in the motor fuel tax law by Chapter 9, Article 9.01 of this Act.

(2) "Liquefied gas" means all combustible gases which exist in the gaseous state at sixty (60) degrees Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

(3) "Distillate fuel" means diesel fuel, kerosene, and any other liquid suitable for the generation of power for the propulsion of motor vehicles, except liquefied gas as defined in (2) above and motor fuel as defined in Article 9.01 of Chapter 9 of this Act. (As Amended Acts 1965, 59th Leg., Ch. 158, p. 334)

ART. 10.03. LEVY OF TAX

(1) An excise tax is hereby levied and imposed upon the use of special fuels for the propulsion of motor vehicles upon the public highways of this State at rates of five cents (5¢) per gallon of liquefied gas, and six and five-tenths cents (6.5¢) per gallon of distillate fuel, so used, which said tax or taxes shall be collected, reported, and paid as hereinafter provided.

(2) Provided, however, that in lieu of the tax rates specified and levied hereinabove an excise tax shall be and is hereby levied and imposed at four cents (4¢) per gallon of liquefied gas and six cents (6¢) per gallon of distillate fuel used for the propulsion of buses owned by a transit company (a) the greater portion of whose business is the transportation of persons within the limits of an incorporated city or town in conveyances designed to transport twelve (12) or more passengers; (b) which holds a franchise from such city or town; (c) whose rates are

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Income

Art. 10.03

regulated by such city or town; and (d) which pays to such city or town a tax on its gross receipts, or any municipally owned and operated transit company. (Formerly Art. 7065b-14.)

ART. 10.22. ALLOCATION OF FUNDS

Before allocation of the funds collected hereunder is made one per cent (1%) of the gross amount of said fund shall be set aside in the State Treasury in a special fund for the use of the Comptroller in the administration and enforcement of the provisions of this Chapter and so much of said amount as may be needed is hereby appropriated for said purpose. Any unpended portion of such fund shall at the end of each fiscal year revert to the respective funds in the proper proportions to which the special fuels taxes are allocated.

Each month the Comptroller shall, after making deductions for refund purposes as provided in Article 10.14 of this Chapter, and for the administration and enforcement of the provisions of this Chapter allocate and deposit the remainder of the taxes collected under the provisions of this Chapter, in the proportions as follows: One-fourth (1/4) Free School Fund, and three-fourths (3/4) of such taxes shall go to and be placed to the credit of the State Highway Fund. (Acts 1959, 56th Leg., p. 284, 289, ch. 1.)

REGISTRATION FEES

ART. 6675a-10. ALLOCATION OF REGISTRATION FEES

On Monday of each week each County Tax Collector shall deposit in the County Depository of his County to the credit of the County Road and Bridge Fund an amount equal to one hundred per cent (100%) of net collections made hereunder during the preceding week until the amount so deposited for the current calendar year shall have reached a total sum of Fifty Thousand Dollars (\$50,000).

Thereafter, and until the amount so deposited for the year shall have reached a total of One Hundred and Seventy-five Thousand Dollars (\$175,000) he shall deposit to the credit of said Fund on Monday of each week an amount equal to fifty per cent (50%) of collections made hereunder during the preceding week.

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Art. 6675a-10

Income

Thereafter he shall make no further deposits to the credit of said Fund during that calendar year. All collections made during any week under the provisions of this Act in excess of the amounts required to be deposited to the credit of the Road and Bridge Fund of his County shall be remitted by each County Tax Collector on each Monday of the succeeding week to the State Highway Department together with carbon copies of each license receipt issued hereunder during the preceding week. He shall also on Monday of each week remit to the Department, as now provided by law, all transfer fees and chauffeurs' license fees collected by him during the preceding week, together with carbon copies of all receipts issued for said fees during the week.

He shall also accompany all remittances to the Highway Department with a complete report of such collections made and disposition made thereof, the form and contents of said report to be prescribed by the State Highway Department. None of the moneys so placed to the credit of the Road and Bridge Fund of a county shall be used to pay the salary or compensation of any County Judge or County Commissioner, but all said moneys shall be used for the construction and maintenance of lateral roads in such county under the supervision of the County Engineer, if there be one, and if there is no such engineer, then the County Commissioners Court shall have authority to command the services of the District Engineer or Resident Engineer of the State Highway Department for the purposes of supervising the construction and surveying of lateral roads in their respective counties. All funds allocated to the counties by the provisions of this Act may be used by the counties in the payment of obligations, if any, issued and incurred in the construction or the improvement of all roads, including State Highways of such counties and districts therein; or the improvement of the roads comprising the county road system; or for the purpose of constructing new roads, or in aid thereof. (As amended Acts 1957, 55th Leg., Reg. Session, ch. 301.)

Ref: See ARTS, 6675a-5 through 6675a-8c, Texas Motor Vehicle Laws for schedule of rates.

FISCAL

Income

Art. 6673e-2

ART. 6673e-2. RIGHT OF WAY FUNDS

From and after the effective date of this Act, the Texas Highway Department shall expend the additional funds provided for by Section 2 of this Act, which is derived from Section 10 of Chapter 88, Acts of the Forty-first Legislature, Second Called Session, 1929, as amended, for the acquisition of rights of way. (Acts 1957, 55th Leg., Reg. Session, ch. 301.)

Note: Refers to 10% increase in Registration Fees granted by HB 620, ACTS 1957. See reference above for new rates.

OMNIBUS TAX CLEARANCE FUND

ART. 7083a. (4-b) FARM-TO-MARKET ROAD APPROPRIATIONS

(4-b). After the above allocations and payments have been made from such Clearance Fund, beginning with the fiscal year September 1, 1959, and annually thereafter, there is hereby appropriated, allocated, transferred and credited, to a fund to be known as the Farm-to-Market Road Fund of the State Highway Department of the State of Texas the sum of Fifteen Million Dollars (\$15,000,000) per year for the construction of Farm-to-Market Roads by the State Highway Department within the State of Texas. The transfer, allocation and payment herein provided shall be made in equal installments during the months of April, May, June, July, and August of each fiscal year beginning with the fiscal year starting September 1, 1959, or as funds therefor become available.

The State Highway Department shall use the funds herein made available in conjunction with other funds available for such purposes so that not less than Twenty-Three Million Dollars (\$23,000,000.00) per year shall be used for the construction of additional miles of newly designated Farm-to-Market Roads, meaning roads in rural areas including feeder roads, secondary roads, school bus routes, rural mail routes, milk routes, etc., and not a part of the designated State Highway System or the designated Primary Federal Aid Highway System.

FISCAL

Art. 7083a (4-b)

Income

These funds shall be expended on a system of roads selected by the State Highway Department after consultation with the County Commissioners Courts of the counties of Texas relative to the most needed unimproved rural roads in the counties involved. The selections shall be made in a manner to insure equitable and judicious distribution of funds and work among the several counties of the State.

The general characteristics of the roads to be selected are as follows:

a. The roads shall not be potential additions to the Federal Aid Primary Highway System;

b. The roads shall serve rural areas primarily and shall connect farms, ranches, rural homes and sources of natural resources such as oil, mines, timber, etc., and/or water loading points, schools, churches and points of public congregation, including community developments and villages;

c. The roads shall be capable of assisting in the creation of economic values in the areas served;

d. The roads shall preferably serve as public school bus routes, or rural free delivery postal routes, or both;

e. The roads shall be capable of early integration with the previously improved Texas Road System and at least one end should connect with a road already or soon to be improved on the State System of Roads.

The above allocation shall be made irrespective of any other subsection of this Section of this Article and Subsection (5) of Section 2 of this Article shall not be applicable to the Farm-to-Market Road Fund. (As amended, Acts, 1962, 57th Leg., 3rd Called Session, ch. 2, p. 2.)

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ART. 6252-9. CODE OF ETHICS

Declaration of policy

Section 1. It is hereby declared to be the policy of the Legislature that no officer or employee of a state agency, Member of the Legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement such policy and to strengthen the faith and confidence of the people of Texas in their Government, there is herein enacted a code of ethics setting forth standards of conduct to be observed by state officers and employees in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for official conduct of the State's public servants but also as a basis for discipline of those who refuse to abide by its terms.

Definitions

Sec. 2. In this Act, unless the context otherwise requires:

(a) "State agency" means any office, department, commission or board of the executive department of government.

(b) "Regulatory agency" means the Board of Insurance Commissioners, Banking Department, Railroad Commission, and Texas Liquor Control Board.

(c) "Legislative employee" means an officer or employee of the Legislature, Legislative Budget Board, Legislative Council and the State Auditor's Office, but does not include Members of the Legislature.

Standards of Conduct

Sec. 3. (a) No officer or employee of a state agency, legislator or legislative employee shall accept any gift, favor,

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or service that might reasonably tend to influence him in the discharge of his official duties.

(b) If an officer or employee of a state agency, legislator or legislative employee is an officer, agent, or member of, or owns a controlling interest in any corporation, firm, partnership, or other business entity which is under the jurisdiction of any state regulatory agency he shall file a sworn statement with the Secretary of State disclosing such interest.

(c) No officer or employee of a state agency, legislator, or legislative employee shall use his official position to secure special privileges or exemptions for himself or others, except as may be otherwise provided by law.

(d) No member of the Legislature who has a personal or private interest in any measure or Bill, proposed, or pending before the Legislature shall vote thereon but shall disclose such interest to the House of which he is a Member and such statement shall be recorded in the Journal.

(e) No officer or employee of a state agency, Legislator, or legislative employee shall accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position.

(f) No officer or employee of a state agency, Legislator, or legislative employee shall disclose confidential information gained by reason of his official position, nor shall he otherwise use such information for his personal gain or benefit.

(g) No officer or employee of a state agency shall transact any business in his official capacity with any business entity of which he is an officer, agent, or member, or in which he owns a controlling interest.

(h) No officer or employee of a state agency shall make personal investments in any enterprise which will create a substantial conflict between his private interests and the public interest.

(i) No officer or employee of a state agency nor any firm, association, corporation or other business entity in which he

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is a member, agent, or officer, or in which he owns a controlling interest, shall sell goods or services to any person, firm, association or corporation which is licensed by or regulated in any manner by the state agency in which such officer or employee serves.

(j) No officer or employee of a state agency, Legislator, or legislative employee shall accept other employment which might impair his independence of judgment in the performance of his public duties.

(k) No officer or employee of a state agency, Legislator or legislative employee shall receive any compensation for his services as an officer or employee of a state agency, Legislator or legislative employee from any source other than the State of Texas, except as may be otherwise provided by law.

Non-compliance

Sec. 4. The failure of any officer or employee of a state agency, Legislator or legislative employee to comply with one or more of the foregoing standards of conduct which apply to him shall constitute grounds for expulsion, removal from office, or discharge, whichever is applicable. (Acts 1957, 55th Leg., Reg. Session, ch. 100.)

ART. 6252-7. LOYALTY OATHS

Oath of persons receiving salary or compensation

Section 1. No funds of the State of Texas shall be paid to any person as salary or as other compensation for personal services unless and until such person has filed with the payroll clerk, or other officer by whom such salary or compensation is certified for payment, an oath or affirmation stating:

"1. That the affiant is not, and has never been, a member of the Communist Party. (The term 'Communist Party' as used herein means any organization which (a) is substantially directed, dominated or controlled by the Union of Soviet Socialistic Republics, or its satellites, or which (b) seeks to overthrow the Government of the United States, or of any State, by force, violence or any other unlawful means); and

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"2. That the affiant is not, and, during the preceding five year period, has not been, a member of any organization, association, movement, group or combination which the Attorney General of the United States, acting pursuant to Executive Order No. 9835, March 21, 1947, 12 Federal Register 1935,¹ has designated as totalitarian, fascist, communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of Government of the United States by unconstitutional means; or, in the event that the affiant has during such five year period been a member of any such organization, association, movement, group or combination, he shall state its name, shall state in detail the circumstances which led him to join it, and shall state that, at the time when he joined and throughout the period during which he was a member, he did not know that its purposes were the purposes which the Attorney General of the United States has designated; and

"3. That the affiant is not, and, during the preceding five year period, has not been, a member of any 'Communist Political Organization' or 'Communist Front Organization' registered under the Federal Internal Security Act of 1950 (50 U.S.C.A., sec. 781, et seq.) or required to so register under said Act by final order of the Federal Subversive Activities Control Board; or, in the event that the affiant has during such five year period been a member of any such organization, he shall state its name, shall state in detail the circumstances which led him to join it, and shall state that, at the time when he joined it and throughout the period during which he was a member, he did not know that its purpose was to further the goals of the Communist Party or that it was controlled by the Communist Party."

Lists of subversive organizations

Sec. 2. The Department of Public Safety shall obtain a list of the organizations, associations, movements, groups and combinations comprehended by Subdivisions 2 and 3 of Section 1 hereof, and shall furnish a copy of such list to the various agencies which expend funds of this State. Such agencies shall

¹ 5 U.S.C.A. 631 note.

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make copies of such list and shall furnish them to their employees in order that the employees can readily perceive whether they can lawfully and truthfully file the oath or affirmation required herein.

Oath of author of school textbooks

Sec. 3. The State Board of Education shall neither adopt nor purchase any textbook for use in the schools of this State unless and until the author of such textbook files with the Board an oath or affirmation reciting the matters set forth in Subdivisions 1, 2 and 3 of Section 1 hereof; provided, however, that if the publisher of any such textbook shall represent to the Board under oath that the author of any textbook is dead or cannot be located, the Board may adopt and purchase such textbook if the publisher thereof executes an oath or affirmation stating that, to the best of his knowledge and belief, the author of the textbook, if he were alive or available, could truthfully execute the oath or affirmation required by the first clause of this Section 3. If the Board is not satisfied with respect to the truthfulness of any oath or affirmation submitted to it by either an author or publisher of a textbook, it may require that evidence of the truthfulness of such oath or affirmation be furnished it, and it may decline to adopt or purchase such textbook if it is not satisfied from the proof that the oath or affirmation is truthful.

Other loyalty oaths superseded

Sec. 4. It is specifically provided, however, that the oath required herein shall supersede all other loyalty oaths now required by law or that may be required in appropriation Acts by the Legislature.

Severability of provisions

Sec. 5. If any portion of this Act should be held to be unconstitutional, the unconstitutionality of such portion shall not affect the validity or application of the remainder of the Act. (Acts 1953, 53rd Leg., p. 51, ch. 41.)

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Art. 6003b.

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ART. 6003b. STATE EMPLOYEE BONDING ACT

Section 1. This shall be known and cited as the "State Employee Bonding Act."

Sec. 2. It is the intent of the Legislature in enacting the provisions of this Act to prescribe uniform standards for the bonding of State officers and employees in order to provide adequate protection against loss, and to prescribe a uniform bond covering officers and employees of all agencies, departments, boards, commissions, institutions, courts, and institutions of higher education of the State of Texas.

Sec. 3. For the purposes of this Act the term:

(a) "Bond" means any agreement under which an insurance company becomes obligated as surety to pay, within certain limits, loss caused by the dishonest acts of officers and employees, or to pay for loss caused by failure of officers or employees to faithfully perform the duties of the offices or positions held.

(b) "Agency" means any department, commission, board, institution, court, institution of higher education, or soil conservation district of the State of Texas, but shall not include any other political subdivision of the State.

(c) "Position Schedule Honesty Bond" means any bond covering the honesty of any employee who may occupy and perform the duties of the positions listed in the schedule attached to the bond, each position being covered for a specific amount.

(d) "Honesty Blanket Position Bond" means any bond which covers all positions occupied by officers or employees of an agency for a uniform specified amount applicable to each position.

(e) "Faithful Performance Blanket Position Bond" means any bond which covers all positions in an agency, conditioned that the officers and employees of such agency will faithfully perform the duties of such officers and employees.

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(f) "Specific Excess Indemnity" means additional bond coverage of specified positions over and above the coverage specified on a "Position Schedule Honesty Bond" an "Honesty Blanket Position Bond" or a "Faithful Performance Blanket Position Bond. "

Sec. 4. The head of any agency, except as otherwise provided for in this Act, is hereby authorized to enter into bonding agreements with an insurance company authorized to do business in the State of Texas for any of the following types of bonds, but no agency or head of any agency shall enter into agreements whereby more than one type of bond is applicable to officers or employees of the agency:

(a) A Position Schedule Honesty Bond may be used when not more than a combined total of ten (10) officers or employees in any particular agency or board are to be bonded.

(b) Blanket Position Bond may be used when three (3) or more officers or employees in a particular agency are to be bonded. Specific excess indemnity may be carried on certain specified positions, provided the total of the blanket bond coverage and the specific excess indemnity for any particular position does not exceed Ten Thousand Dollars (\$10,000).

Sec. 5. (a) Unless otherwise provided for in this Act, the maximum coverage on any State official or State employee shall not exceed the sum of Ten Thousand Dollars (\$10,000). The head of each agency, unless otherwise provided for in this Act, shall determine the coverage need of the agency within this limit.

(b) The Comptroller of Public Accounts and the State Treasurer may, in addition to entering into agreements for Position Schedule Honesty Bond or Blanket Position Honesty Bond, are each authorized to enter into agreements for Specific Excess Indemnity Bonds and to enter into agreements for Faithful Performance Blanket Position Bonds.

(c) All bonds for Specific Excess Indemnity in excess of the Ten Thousand Dollars (\$10,000) hereinabove specified, shall be entered into only upon the recommendation and approval of the State Auditor, when, in his judgment, such excess coverage is necessary to adequately protect the State.

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Sec. 6. (a) All bonds provided for in this Act shall be on forms approved by the State Board of Insurance, and shall be written only in companies authorized to act as surety in the State of Texas.

(b) The premiums on all bonds provided for in this Act shall be paid by the State of Texas as obligee out of moneys appropriated for such purpose by the Legislature, or moneys appropriated by the Legislature to any agency for administration or administration expense, or for operation expense, or for general operation expense, or for maintenance, or miscellaneous expense, or for contingencies, or out of moneys in possession of an agency outside the State Treasury and available to such agency for expenditure for operational expense of the agency.

(c) All bonds provided for in this Act shall be written in triplicate originals. One original shall be filed in the office of the Secretary of State; one original shall be filed in the office of the Comptroller of Public Accounts; and one original shall be filed in the office of the agency covered by the bond, and each agency is charged with the responsibility of the custody of such bonds.

(d) Contracts or agreements for bond coverage may be purchased on a three-year basis, and the bond coverage shall cover the particular office or position rather than the person occupying the office or position at the time the agreement is entered into.

Sec. 7. The Attorney General of Texas, upon notice by any agency of any loss covered by any bond provided for in this Act, shall have the authority to proceed immediately to institute or cause to be instituted any action to recover such loss, and to take any action necessary for the recovery of the obligation of the surety. All recoveries of losses and all recoveries under bonds covered by the provisions of this Act shall be deposited to the credit of the fund from which the loss occurred.

Sec. 8. All laws authorizing or requiring any faithful performance bond, any faithful performance blanket position bond, any position schedule honesty bond, or any honesty blanket position bond for any officer or employee of any agency of the

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State of Texas are hereby repealed to the extent of such authorization or requirement and all laws or parts of laws prescribing the amount of such bonds, and all laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict. (Acts, 1959, 56th Leg., Reg. Session, ch. 383, p. 855.)

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Art. 5165a

Wages and Hours

WAGES AND HOURS

NOTE: See ART. 5159a, page 30; ART. 1581a PC, page 32 ;
ART. 5165, page 33 ; ART. 1580 PC, page 33; and
ART. 1581 PC, page 34.

ART. 5165a. WEEKLY WORKING HOURS OF STATE OFFICE EMPLOYEES

Section 1. All state employees who are employed in the offices of state departments or institutions or agencies, and who are paid on a full-time salary basis, shall work forty (40) hours a week. Provided, however, that the administrative heads of agencies whose functions are such that certain services must be maintained on a twenty-four (24) hours per day basis are authorized to require that essential employees engaged in performing such services be on duty for a longer work-week in necessary or emergency situations.

Sec. 2. Except as otherwise provided in Section 1 of this Act, and except on legal holidays authorized by law, the normal office hours of state departments, institutions and agencies shall be from 8:00 a. m. to 5:00 p. m. , Mondays through Fridays, and these shall be the regular hours of work for all full-time employees; provided, however, that such normal working hours for employees of state departments and agencies in the Capitol Area in Austin may be staggered in such manner as biennial Appropriations Acts of the Legislature may stipulate or authorize in the interests of traffic regulation and public safety. Where an executive head deems it necessary or advisable, offices may also be kept open during other hours and on other days, and the time worked on such other days shall count toward the forty (40) hours per week which are required under Section 1 of this Act. It is further provided that exceptions to the minimum length of the work week may be made by the executive head of a state agency to take care of any emergency or public necessity that he may find to exist. None of the provisions of this Act shall apply to persons employed on an hourly basis. (SB 264, Acts 58th Leg., 1963)

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Art. 4591

MISCELLANEOUS

ART. 4591. LEGAL HOLIDAYS

The first day of January, the 19th day of January, the 22nd day of February, the second day of March, the 21st day of April, the third day of June, the fourth day of July, the first Monday in September, 12th day of October, the 11th day of November, the fourth Thursday in November, and the 25th day of December, of each year, and every day on which an election is held throughout the state, are declared legal holidays, on which all the public offices of the state may be closed and shall be considered and treated as Sunday for all purposes regarding the presenting for the payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by the law upon the footing of bills of exchange. (As amended Acts 1957, 55th Leg., Reg. Session, ch. 205.)

ART. 6252-8. VACATION FOR EMPLOYEES PAID ON HOURLY OR DAILY BASIS

All State departments, institutions, and agencies are hereby authorized to grant to all employees who are paid on an hourly or daily basis and who have been continuously employed by the State of Texas for six (6) months a vacation with full pay for the same length of time as the vacation granted to employees who are paid on a monthly basis. (Acts 1953, 53rd Leg., p. 642, ch. 248, § 1.)

ART. 6252-4. MILITARY SERVICE OF EMPLOYEES

Restoration to employment or discharge

Section 1. Any employee of the State of Texas, other than a temporary employee, an elected official or one serving under an appointment which requires confirmation by the Senate, who leaves his position in time of war or during the national emergency and enters the military, air or naval forces of the United States or other active Federal military duty or service by reason of induction into the armed forces of the United States or in compliance with orders to active Federal military duty, or enters service as a member of the Texas National

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Guard or Texas State Guard or as a member of any of the reserve components of the Armed Forces of the United States shall, if discharged, separated or released from such active military service under honorable conditions, be restored to employment in the same department, office, commission, board or other agency of the state constituting employment by the State of Texas, and to the same position held at the time of induction or order to active Federal or State military duty or service, or to a position of like seniority, status and pay if still physically and mentally qualified to perform the duties of such position.

Restoration to other employment for which qualified

Sec. 2. If such person is not qualified to perform the duties of such position by reason of disability sustained during such military service, but qualified to perform the duties of another position in the same department, office, commission, board or other state agency, the veteran shall be restored to employment in such other position, the duties of which the veteran is qualified to perform, as will provide like seniority, status, and pay, or the nearest possible approximation thereof.

Deemed to have been on furlough or leave of absence

Sec. 3. Any person who is restored to a position in accordance herewith shall be considered as having been on furlough or leave of absence during such absence in Federal or State military service, and shall be entitled to participation in retirement or other benefits to which employees of the State of Texas are, or may be, entitled and shall not be, discharged from such position without cause within one year after such restoration.

Application for restoration

Sec. 4. Veterans eligible for restoration to employment hereunder shall make written application for such restoration within ninety days after discharge or release from active Federal or State military service, to the head of the department, office, commission, board or other such state agency constituting employment by the State of Texas in or by which such veteran was employed prior to entering such military

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service, and shall attach thereto evidence of discharge, separation or release from such military service under honorable conditions. (Acts 1951, 52nd Leg., p. 169, ch. 107.)

ART. 5769b-1. LEAVES OF ABSENCE FOR MILITARY DUTY

Section 1. All officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities, who shall be members of the National Guard or Official Militia of Texas, or members of any of the Reserve Components of the Armed Forces, shall be entitled to leave of absence from their respective duties without loss of time or efficiency rating or vacation time or salary on all days during which they shall be engaged in field or coast defense training and on all days of parade or encampment, ordered or authorized by proper authority.

Sec. 2. All officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities who shall be members of the National Guard or Official Militia of Texas, or members of any of the Reserve Components of the Armed Forces, shall be entitled to leave of absence from their respective duties without loss of time or efficiency rating or vacation time or salary on all days on which they shall be ordered by proper authority to duty with troops or field exercises, or for instruction, for not to exceed fifteen (15) days in any one calendar year.

Sec. 3. Members of the National Guard or Official Militia of Texas, or members of any of the Reserve Components of the Armed Forces, who are in the employ of the State of Texas, who are ordered to duty by proper authority shall, when relieved from duty, be restored to the position held by them when ordered to duty. (Acts 1953, 53rd Leg., p. 584, ch. 227.)

ART. 4413(31). PREFERENCE OF VETERANS IN APPOINTMENT OR EMPLOYMENT

Persons entitled to preference

Section 1. From and after the effective date of this Act, in every public department, commission, board, and government agency, and upon all public works of this State, all honorably

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discharged soldiers, sailors, marines, members of the air corps and coast guard of the United States, nurses in military service of the United States, and all women in military service of the United States in the different auxiliary services thereof, in the Spanish-American War, Philippine Insurrection, China Relief Expedition, World War I and World War II, or in any other military conflict in which the United States of America has been a participant, or the war in Korea after June 24, 1950, and the widows and orphans of such personnel of the Armed Forces of the United States, who are and have been citizens of Texas for not less than five (5) years preceding the date of application in pursuance of this Act, and are competent and fully qualified, shall be entitled to preference in appointment or employment over other applicants for the same position having no greater qualifications; provided, that this Act shall not apply or benefit any person who was a conscientious objector at the time of his or her discharge from any of the military services herein mentioned.

Percentage of employees entitled to preference

Sec. 2. The person or persons whose duty it is or may be to appoint or employ persons for or on behalf of the public departments, commissions, boards and other governmental agencies and public works as set out in Section 1 hereof, shall ascertain the number of employees therein and shall give preference to persons entitled thereto under and in accordance with this Act, to the extent that not less than forty per cent (40%) of the total number of employees so employed shall be selected from those by this Act given preference; provided, however, that on and after the effective date of this Act those public departments, commissions, boards, and other governmental agencies and public works of this State which do not have a forty per cent (40%) quota as herein prescribed, shall, upon replacing employees in vacancies existing give preference to persons granted preference hereby, until such time as it or they shall have reached the prescribed total of forty per cent (40%); provided, however, that not less than twenty-five per cent (25%) of said employees hereby given preference shall be so employed not later than January 1, 1947, and not less than the full forty per cent (40%) by January 1, 1948; provided further, however, that wherever possible ten per cent (10%) of those given preference under this Act shall be taken from

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those veterans who have been discharged from the armed services of the United States within the preceding eighteen (18) months.

Age or service-connected disability as affecting rights

Sec. 3. Persons entitled to preference under this Act shall not be disqualified from holding any position or employment hereinbefore mentioned on account of age or by reason of any service-connected disability, provided such age or disability does not render him or her incompetent to properly and capably perform the duties of the position or employment applied for. In all public departments, commissions, boards and other governmental agencies and public works of this State which now require or may hereafter require a competitive examination under a Merit System or Civil Service Plan of either or both selecting and promoting employees, such person who is otherwise eligible and qualified for and entitled to preference under this Act, who shall have been so examined and shall have attained at least the minimum required score for such test or tests, shall have a service credit amounting to five (5) points added to the earned rating, and a service credit amounting to five (5) additional points shall be added to the earned rating of each such person who has a service-connected disability which has been or may be established by official records, which records such disabled person shall furnish to the person or persons whose duty it is to fill the position or employment applied for. In any public departments, commissions, boards, governmental agencies and public works of this State where competitive examinations for such purposes are not now or hereafter held, those entitled to preference under this Act and having such service-connected disability so to be established and proof of the existence thereof furnished as hereinbefore provided, shall be entitled to preference for employment or appointment over all other applicants for the same position without any such disability and having no greater qualifications.

Investigation as to qualifications

Sec. 4. When any person entitled to preference under Section 1 of this Act shall apply for appointment or employment under this Act, the officer, executive head of the department or person or persons whose duty it is to appoint or

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employ some person to fill the position or employment applied for, shall, before appointing or employing any one to fill such position or employment, make an investigation as to the qualifications of such applicant for such position or employment, and if the applicant is a person of good moral character, and can perform the duties of the position or employment applied for as hereinabove provided, such officer, head of department, or other person or persons having the appointive duty and power shall appoint or employ the applicant to such position or employment. Provided, however, that the provision of this Section shall not be operative if the said department, board, commission, governmental agency or public works shall have in its employment at the time the percentage required under Section 2 hereof of those entitled to preference under this Act.

Federal grants

Sec. 5. If any provision of this Act shall be found to be in conflict with the Federal Laws, or any limitations fixed by Federal grants of funds to the public departments or governmental agencies, this Act shall be so construed as to operate to the extent only with reference to such Federal grants as it may be found to be in harmony therewith, and shall be in force with reference to said funds, to the extent of its harmonious provisions, and no further.

Inapplicable to certain positions

Sec. 6. Nothing in this Act shall be construed to apply to the position of private secretary or deputy of any official or department or to any person holding a strictly confidential relation to the appointing or employing officer. (As amended Acts 1951, 52nd Leg., p. 374, ch. 238, § 1.)

ART. 6823. TRAVELING EXPENSES

The traveling and other necessary expenses incurred by the various officers, assistants, deputies, clerks and other employees in the various departments, institutions, boards, commissions or other subdivisions of the State Government, in the active discharge of their duties shall be such as are specifically fixed and appropriated by the Legislature in the General Appropriation Bills providing for the expenses of the State Government from year to year. When appropriations

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for traveling expenses are made any allowances or payments to officials or employees for the use of privately owned automobiles shall be on a basis of actual mileage traveled for each trip or all trips covered by the expense accounts submitted for payment or allowance from such appropriations, and such payment or allowance shall be made at a rate of seven cents (7¢) for each mile actually traveled, and no additional expense incident to the operation of such automobile shall be allowed. (As amended Acts 1949, 51st Leg., p. 913, ch. 491, § 1; Acts 1953, 53rd Leg., p. 660, ch. 250, § 1.)

ART. 6823a. TRAVEL REGULATIONS ACT OF 1959

Sec. 2. The provisions of this Act shall apply to all officers, heads of state agencies, and state employees. The provisions of this Act shall not apply to judges and other judicial employees paid by the state, counties or other political subdivisions pursuant to law. Heads of state agencies shall mean elected state officials, excluding members of the Legislature who shall receive travel reimbursement as provided by the Constitution, appointed state officials, appointed state officials whose appointment is subject to Senate confirmation, directors of legislative interim committees or boards, heads of state hospitals and special schools, and heads of state institutions of higher education.

Sec. 3. a. Reimbursement from funds appropriated by the Legislature for traveling and other necessary expenses incurred by the various officials, heads of state agencies, and employees of the state in the active discharge of their duties shall be on the basis of either a per diem or actual expenses as specifically fixed and appropriated by the Legislature in General Appropriation Acts. A per diem allowance shall mean a flat daily rate payment in lieu of actual expenses incurred for meals and lodging and as such shall be legally construed as additional compensation for official travel purposes only.

b. The rate of per diem and transportation allowance and method of computing those rates shall be those set forth in General Appropriation Acts providing for the expenses of the state government from year to year.

Sec. 4. Unless otherwise provided by law, officers and employees traveling to the performance of their official duties

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shall not accept any sums of money for wages or expenses, from any corporation, firm, or person who may be or is being audited, examined, inspected or investigated, and must receive their traveling expenses from the amounts appropriated in the Appropriation Acts. The Comptroller is hereby prohibited from paying the salary of any employee of the state who violates these provisions.

Sec. 5. Any travel connected with official business of the state for which reimbursement for travel expenses incurred outside the continental limits of the United States is claimed must have the advance written approval of the Governor. Blanket authority by the Governor may be given the Department of Public Safety to law enforcement personnel entering Mexico to apprehend criminals.

Sec. 6. a. The Comptroller of Public Accounts is to promulgate rules and regulations to facilitate the execution of the travel regulations, as defined in this Act or as may hereafter be contained in General Appropriations Acts, and shall, with the concurrence of the State Auditor, prescribe the form on which travel expenses are to be submitted. The Comptroller shall approve claims for travel expense and issue warrants on basis of approved claims.

Such rules and regulations as are prescribed by the Comptroller shall be subject to final approval by the Attorney General. After such approval has been given, official copies of the rules and regulations, including administrative policies and/or interpretations of these rules and regulations, shall be filed with the Secretary of State.

b. Standard expense account forms shall be used by all state agencies in preparing the expense accounts for traveling state employees. Such forms shall contain information stating (1) the point of origin and the town, place or point of destination of each trip and the reimbursable mileage travelled between each point, town, or place. This provision shall also apply to intra-city mileage; (2) the actual period of time the employee is away from his designated headquarters entitling him to travel expenses; and (3) a brief statement which clearly shows the purpose of the trip and the character of official business performed.

c. In determining transportation reimbursement for travel by private conveyance, the Comptroller shall base reimbursement on the mileage by shortest highway distance between point of origin and the destination via intermediate points at which official state business is conducted and other necessary mileage at points where official state business is conducted. In determining the amounts of reimbursement for transportation by personal car within the state, the Comptroller shall compute all distances in accordance with the latest official state highway map. (S. B. 448, Acts 58th Leg. 1963.)

d. When two or more employees travel in a single private conveyance, only one shall receive a transportation allowance, but this provision shall not preclude each traveler from receiving a per diem allowance.

e. When two, three, or four officials or employees of the same state agency with the same itinerary on the same dates are required to travel on the same official state business for which travel reimbursement for mileage in a personal car is claimed, mileage reimbursement will be claimed and allowed for only one of the employees except as provided hereafter. To the extent to mileage reimbursement claimed, the Comptroller shall consider such travel claims as multiple claims and may pay only one such claim. If more than four employees attend such meeting or conference in more than one car, full mileage reimbursement shall be allowed for one car for each four employees and for any fraction in excess of a multiple of four employees. If, in any instance, it is not feasible for these officials or employees to travel in the same car, then prior official approval from the head of the state department or

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agency shall be obtained and shall be considered as authorization and the basis for reimbursement for travel for each person authorized to use his personal car in such travel.

f. Should an officer or employee of the state receive an overpayment for travel expenses from money appropriated in the Appropriations Acts, he is to reimburse the state for such overpayment.

Sec. 7. Double travel expense payments to state officials or employees are prohibited. When an employee engages in travel for which he is to be compensated by a non-state agency, he shall not receive any reimbursement for such travel from authorized amounts in the General Appropriation Acts.

Sec. 8. An employee whose duties customarily require travel within his designated headquarters may be authorized a local transportation allowance for this travel. Such allowance, however, shall never exceed the transportation allowance for use of a privately owned automobile as set by the Legislature in the General Appropriations Acts.

Sec. 9. Neither a per diem allowance nor partial per diem allowance as set out in the General Appropriations Acts shall be allowed for the period of time on those days when an employee is:

- (1) At his official designated headquarters.
- (2) Absent from post of duty for personal reasons.
- (3) Absent from post of duty for any reason not connected with duties of the agency by which the employee is employed.
- (4) Away from designated headquarters for a period of less than six consecutive hours.

When an employee leaves his post of duty for any reason not connected with the duties of the agency by which such employee is employed, or for personal reasons, the employee shall clearly show he is absent for personal reasons on the expense account and will also show the hour and date of departure from post of duty and the hour and date he returned to said post of duty.

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Sec. 10. The provisions of this Act shall not preclude reimbursement of claims by officials or employees for use of public conveyances. Transportation is authorized by courtesy cards for air, rail and bus lines.

Sec. 11. None of the provisions of this Act shall apply to reimbursement for travel expenses incurred by officials or employees of athletic departments of the institutions of higher education, to reimbursement for travel expenses to officials or employees of institutions of higher education from gifts or bequests, or to reimbursement for travel expenses of officials or employees when expenses for such travel are paid or reimbursed to the institutions of higher education under provisions of contracts between the institutions and the Federal Government or other contracting agencies. The governing boards of the respective institutions of higher education shall make such necessary rules and regulations as may be deemed advisable for the administration and control of such travel. (Acts 1959, 56th Leg., p. 523, ch. 231.)

ART. 1342 PC. UNLAWFUL USE OF STATE'S VEHICLE

Whoever uses any automobile, truck or other motor vehicle owned by this State for any purpose except in the transaction of business for the State shall be fined not less than five nor more than five hundred dollars. (Acts 1921, p. 122.)

ART. 146a PC. FAILURE TO MAKE REPORT AS TO USE OF STATE AUTOMOBILE OR TRUCK OR MAKING FALSE REPORT

Report of use

Section 1. Whoever uses an automobile or truck owned by this State for any purpose shall make a written report of such use to the Head of the Department, Institution, Board, Commission or other Agency of this State having charge of such automobile or truck, such reports to be made daily when such vehicles are in use, a separate report being made for each day, and such reports shall be made on forms prescribed by the State Auditor. Such reports shall show the purpose for which such vehicle was used, the mileage traveled, the amounts of gasoline and oil consumed, the passengers carried, and such

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other information as may be necessary to provide a proper record of the use of such vehicle. Said reports shall be official records of the State and shall be subject to inspection by any official of this State who shall be authorized to audit or inspect claims, accounts or records of any State Department, Institution, Board, Commission or Agency of the State.

Penalty for failure to make reports

Sec. 2. Whoever uses any automobile or truck owned by this State for any purpose and fails to make and file a report of such use as required by this Act within ten (10) days after the use of said automobile or truck shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00).

Penalty for making false report

Sec. 3. Whoever uses any automobile or truck owned by this State for any purpose and makes a false or fraudulent report of such use shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00). (Acts 1931, 42nd Leg., p. 374, ch. 220.)

ART. 978o PC. USE OF PUBLIC PROPERTY FOR PRIVATE PROFIT

Section 1. If any officer of this State or of any county or of any municipality shall knowingly use or permit to be used for private profit to himself other than to the State, county, or municipality, any property, supplies, equipment, or other thing of value belonging to the State or to any county or municipality, he shall be punished by fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the County Jail for not more than two (2) years or by both such fine and imprisonment. (Acts 1945, 49th Leg., p. 653, ch. 363.)

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ART. 6674s. WORKMEN'S COMPENSATION INSURANCE FOR HIGHWAY DEPARTMENT EMPLOYEES

Provision made for insurance

Section 1. By virtue of the provisions of Section 59 of Article III of the Constitution of the State of Texas granting the Legislature power to pass such laws as may be necessary to provide for Workmen's Compensation Insurance for State employees, as in its judgment is necessary or required, and to provide for the payment of all costs, charges, and premiums on such insurance, provision is made as hereinafter set forth.

Definitions

Sec. 2. The following words and phrases as used in this law shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

1. "Department" whenever used in this law shall be held to mean the State Highway Department of Texas.

2. "Employee" shall mean every person in the service of the State Highway Department under any appointment or expressed contract of hire, oral or written, whose name appears upon the pay roll of the State Highway Department, except officials appointed by the Governor with the advice and consent of the Senate, except clerical and office employees not required by their duties to travel or work away from their office, and except all positions for which itemized appropriations are made by the Legislature. No person in the service of the State Highway Department who is paid on a piecework basis, or on any basis other than by the hour, day, week, month, or year, shall be considered an employee and entitled to compensation under the terms and provisions of this Act. Provided further, that no person shall be classified as an "employee" nor be eligible to any compensation benefits under

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the terms and provisions of this Act until he shall have submitted himself first to a physical examination by a regularly licensed physician or surgeon designated by the State Highway Department to make such examination and thereafter been certified by the State Highway Department to be placed on the pay roll of the State Highway Department.

3. "Insurance" shall mean Workmen's Compensation Insurance.

4. "Board" shall mean the Industrial Accident Board of the State of Texas.

5. "Legal beneficiaries" shall mean the relatives named in Section 8a of Article 8306, Revised Civil Statutes of Texas of 1925, adopted in Section 7 of this law.

6. "Average weekly wages" shall be as defined in Section 1, Article 8309, Revised Civil Statutes of Texas of 1925.

7. Repealed Acts 1947, 50th Leg., p. 722, ch. 358, § 1.

8. Any reference to an employee herein who has been injured shall, when the employee is dead, also include the legal beneficiaries, as that term is herein used, of such employee to whom compensation may be payable. Whenever in this law the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

General provisions

Sec. 3. After the effective date of this law any employee, as defined in this law, who sustains an injury in the course of his employment shall be paid compensation as hereinafter provided.

The Department is hereby authorized to be self-insuring and is charged with the administration of this law. The Department shall notify the Board of the effective date of such insurance, stating in such notice the nature of the work performed by the employees of the Department, the approximate number of employees, and the estimated amount of pay roll.

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The Department shall give notice to all employees that, effective at the time stated in such notice, the Department has provided for payment of insurance.

Employees of the Department shall be conclusively deemed to have accepted the provisions hereof in lieu of common law or statutory causes of action, if any, for injuries resulting in the course of their employment.

Injury in course of employment

Sec. 4. If an employee of the Department sustains an injury in the course of his employment, he shall be paid compensation by the Department, as hereinafter provided.

Willful intention and intoxication of employee as defenses

Sec. 5. If an action to recover damages for personal injuries sustained by an employee in the course of his employment, or for death resulting from personal injuries so sustained, the Department may defend in such action on the ground that the injury was caused by the willful intention of the employee to bring about the injury, or was so caused while the employee was in a state of intoxication.

No right of action against agents or employees of Highway Department; compensation exempt from garnishment or attachment; assignments void

Sec. 6. Employees of the Department and parents of minor employees shall have no right of action against the agents, servants, or employees of the Department for damages for personal injuries nor shall representatives and beneficiaries of deceased employees have a right of action against the agents, servants, or employees of the Department for injuries resulting in death, but such employees and their representatives and beneficiaries shall look for compensation solely to the Department as is provided in this law. All compensation allowed herein shall be exempt from garnishment, attachment, judgment, and all other suits or claims, and no such right of action and no such compensation and no part thereof nor of either shall be assignable, except as otherwise herein provided, and any attempt to assign the same shall be void.

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Sec. 7. Unless otherwise provided herein, Section 6 as amended by Acts, 1927, Fortieth Legislature, page 84, Chapter 60, Section 1; 7; 7b; 7c, as amended Acts, 1957, Fifty-fifth Legislature, page 1186, Chapter 397, Section 1; 7d, as amended Acts, 1957, Fifty-fifth Legislature, page 1186, Chapter 397, Section 1; 8, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature, as amended Acts, 1957, Fifty-fifth Legislature, page 1186, Chapter 397, Section 1; 8a; 8b; 9, as amended Acts, 1931, Forty-second Legislature, page 303, Chapter 178; 10, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature, as amended, Acts, 1957, Fifty-fifth Legislature, page 1186, Chapter 397, Section 1; 11, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature, as amended Acts, 1957, Fifty-fifth Legislature, page 1186, Chapter 397, Section 1; 11a, as added Acts, 1927, Fortieth Legislature, page 41, Chapter 28, Section 1; 12, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature, as amended Acts, 1957, Fifty-fifth Legislature, page 1186, Chapter 397, Section 1; 12a; 12b; 12c; 12d, as amended Acts, 1931, Forty-second Legislature, page 260, Chapter 155, Section 1; 12e; 12f; 12i, as amended Acts, 1931, Forty-second Legislature, page 259, Chapter 154, Section 1; 13; 14; 15; 15a; 16; 17; 19, as amended Acts, 1927, Fortieth Legislature, page 383, Chapter 259, Section 1, as amended Acts, 1931, Forty-second Legislature, page 133, Chapter 90, Section 1; 20; 21; 22; 23; 24; 25; 26; 27, as added by Senate Bill No. 40, Acts, 1947, Fiftieth Legislature; Acts, 1931, Forty-second Legislature, page 415, Chapter 248, Section 1, all being Sections of Article 8306 of the Revised Civil Statutes of Texas, 1925, as amended; Section 4a, as amended by Senate Bill No. 40, Acts, 1947, Fiftieth Legislature; 6a; 11, and 12 of Article 8307 of the Revised Civil Statutes of Texas, 1925; and 13 and 14 of Article 8307, as added by Senate Bill No. 40, Acts, 1947, Fiftieth Legislature; and Sections 4 and 5 of Article 8309 of the Revised Civil Statutes of Texas, 1925, and Senate Bill No. 64, Acts, Regular Session, Forty-fifth Legislature, are hereby adopted and shall govern insofar as applicable under the provisions of this law. Provided that whenever in the above adopted Sections of Articles 8306, 8307 and 8309 of the Revised Civil Statutes of Texas, 1925, the words "association," "subscriber," or "employer," or their equivalents appear in such Articles, they shall be construed to and shall mean "the Department." (As amended Acts 1959, 56th Leg., p. 862, ch. 388, § 2.)

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Attorney's fees

Sec. 8. For representing the interest of any claimant in any manner carried from the Board into the Courts, it shall be lawful for the attorney representing such interest to contract with any beneficiary under this law for an attorney's fee for such representation, such fee to be determined as herein provided and, when the amount recovered exceeds the amount of the award appealed from, to include not more than one-third of the amount by which the judgment exceeds the award, such fee for services so rendered to be determined and allowed by the trial Court in which such cause may be heard and determined.

Weekly payments of compensation

Sec. 9. It is the purpose of this law that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein.

Physical examination; effect of refusal to submit to; insanitary and injurious practices; procedure

Sec. 10. The Board may require any employee claiming to have sustained injury to submit himself for examination before such Board or some one acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the Board to a physician or physicians authorized to practice under the laws of this State. If the employee or the Department requests, he or it shall be entitled to have a physician or physicians of his or its own selection present to participate in such examination. Refusal of the employee to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment or other remedial treatment recognized by the State, as is reasonably essential to promote his recovery, the Board

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may in its discretion order or direct the Department to reduce or suspend the compensation of any such injured employee. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the employee and an opportunity to be heard.

The Department shall have the privilege of having any injured employee examined by a physician or physicians of its own selection, at reasonable times, at a place or places suitable to the condition of the injured employee and convenient and accessible to him. The Department shall pay for such examination and the reasonable expense incident to the injured employee in submitting thereto. The injured employee shall have the privilege to have a physician of his own selection present to participate in such examination. Provided, when such examination is directed by the Board or the Department, the Department shall pay the fee of the physician selected by the employee, such fee to be fixed by the Board.

Process and procedure shall be as summary as may be under this law. The Board or any member thereof shall have power to subpoena witnesses, administer oaths, inquire into matters of fact, examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings and decisions of the Board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this law.

Industrial Accident Board, authority of; procedure

Sec. 11. All questions arising under this law, if not settled by agreement of the parties interested therein and within the provisions of this law, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall within twenty (20) days after the rendition of said final ruling and decision by said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred to set aside said final ruling and decision and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. Whenever such suit is brought, the

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rights and liability of the parties thereto shall be determined by the provisions of this law and the suit of the injured employee or person suing on account of the death of such employee shall be against the Department. If the final order of the Board is against the Department, then the Department shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the Court shall in either event determine the issues in such cause instead of the Board upon trial de novo and the burden of proof shall be upon the party claiming compensation. The Board shall furnish any interested party in said claim pending in Court upon request free of charge, with a certified copy of the notice of the Department becoming an insurer filed with the Board and the same when properly certified to shall be admissible in evidence in any Court in this State upon trial of such claim therein pending and shall be prima facie proof of all facts stated in such notice in the trial of said cause unless same is denied under oath by the opposing party therein. In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this law. If any party to any such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the Department, it shall at once comply with such final ruling and decision.

In all cases where the Board shall make a final order, ruling, or decision, as provided in the preceding Section and against the Department, and the Department shall fail and refuse to obey or comply with the same and shall fail or refuse to bring suit to set the same aside as in said Section is provided, then in that event the claimant in addition to the rights and remedies given him and the Board in said Section may bring suit in a Court of competent jurisdiction, upon said order, ruling, or decision. If he secures a judgment sustaining such order, ruling, or decision in whole or in part, he shall also be entitled to recover the further sum of twelve (12) per cent as damages upon the amount of compensation so recovered in said judgment, together with a reasonable attorney's fee for the prosecution and collection of such claim.

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Where the Board has made an award against the Department requiring the payment to an injured employee or his beneficiaries of any weekly or monthly payments, under the terms of this law, and the Department should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured employee or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon to collect the full amount thereof, together with twelve (12) per cent penalties and attorney's fees as herein provided for. Suit may be brought under provisions of this Section, either in the county where the accident occurred, or in any county where the claimants reside, or where one or more of such claimants may have his place of residence at the time of the institution of the suit.

Employees of subcontractors

Sec. 12. If the Department sublets the whole or any part of the work to be performed or done to any subcontractor, then in the event any employee of such subcontractor, whose name does not appear on the pay roll of the Department, sustains an injury in the course of his employment, he shall be deemed and taken for all purposes of this law not to be an employee as defined in this law.

Records and reports of injuries

Sec. 13. The Department shall hereafter keep a record of all injuries fatal or otherwise, sustained by its employees in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to an employee, causing his absence from work for more than one day, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured employee, or if such incapacity extends beyond a period of sixty (60) days, the Department shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name, age, sex, and occupation of the injured employee and the character of work in which he was engaged at the time of the injury, and shall state the place, date, and hour of receiving such injury and the nature and cause of the injury, and

such other information as the Board may require. The Department shall be responsible for the submission of the reports in the time specified in this Section.

Rules and regulations; examining physicians;
reports as evidence

Sec. 14. The State Highway Department is authorized to promulgate and publish such rules and regulations and to prescribe and furnish such forms as may be necessary to the effective administration of this law, and the State Highway Department shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary. It shall be the duty of the State Highway Department to designate a convenient number of regularly licensed practicing physicians and surgeons for the purpose of making physical examinations of all persons employed or to be employed in the service of the State Highway Department to determine who may be physically fit to be classified as "employee" as that term is defined in Subsection 2 of Section 2 of this Act, and said physicians and surgeons so designated and so conducting such examinations shall make and file with the State Highway Department a complete transcript of said examination in writing and sworn to upon a form to be furnished by the State Highway Department. It shall be the duty of the State Highway Department to preserve as a part of the permanent records of the State Highway Department all reports of such examinations so filed with him. Such reports shall be admissible in evidence before the Industrial Accident Board, and in any court of competent jurisdiction to which an appeal has been made from a final award or ruling of the Industrial Accident Board in which the person named in said examination is a claimant for compensation benefits under the terms and provisions of this Act, and such reports so admitted shall be prima facie as to the facts set out therein.

Physical examination prerequisite
certification as employee

Sec. 14a. No person shall be certified as an employee of the State Highway Department under the terms and provisions of this Act until he has submitted himself for a physical examination as provided in Section 14 herein and has been certified by the examining physician or surgeon to be physically fit to

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perform the duties and services to which he is to be assigned, provided that absence of a physical examination shall not be a bar to recovery.

Award as evidence; certified copies of orders, awards, decisions, or documents

Sec. 15. Any order, award, or proceeding of said Board when duly attested by any member of the Board or its secretary shall be admissible as evidence of the act of said Board in any Court of this State.

Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the Secretary of State's office, the Board shall furnish to any person entitled thereto a certified copy of any order, award, decision, or paper on file in the office of said Board and the fees so received for such copies shall be paid into the State Treasury and credited to the General Revenue Fund; provided that the Department shall be furnished such certified copies without charge. No fee or salary shall be paid to any person in said Board for making such copies in excess of the fees charged for such copies.

Suit to set aside decision of Board; notice

Sec. 16. Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Board shall, in the manner and within the time provided by Section 11 of this law, file notice with said Board, and bring suit in the county where the injury occurred to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, the Court in which same is filed shall, upon ascertaining that it does not have jurisdiction to render judgment upon the merit, transfer the case to the proper Court in the county where the injury occurred. Provided, however, that notice of said transfer shall be given to the parties and said suit when filed in the Court to which the transfer is made, shall be considered for all purposes, the same as if originally filed in said Court.

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Time of hearing

Sec. 17. When an injured employee has sustained an injury in the course of employment and filed claim for compensation and given notice as required by law, the Board shall hear his claim for compensation within a reasonable time. Provided, however, when such injured employee is being paid compensation as provided in this law, and the Department is furnishing either hospitalization or medical treatment to such employee, the Board may, within its discretion, delay or postpone the hearing of his claim, and no appeal shall be taken from any such order made by the Board.

Percentage of payroll set aside in account for payments under act

Sec. 18. The Department is hereby authorized to set aside from available appropriations other than itemized appropriations an amount not to exceed three and one-half (3 1/2) per cent of the annual labor pay roll of the Department for the payment of all costs, administrative expense, charges, benefits, and awards authorized by this law.

The amounts so set aside shall be set up in a separate account in the records of the Department, which account shall show the disbursements authorized by this law; provided the amounts so set aside in this account shall not exceed three and one-half (3 1/2) per cent of the annual labor pay roll at any one time. A statement of the amounts set aside for and disbursements from said account shall be included in reports made to the Governor and the Legislature as required by the Statutes. (Acts 1937, 45th Leg., p. 1352, ch. 502.)

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ART. 6663a. PHOTOGRAPHIC OR MICROPHOTOGRAPHIC RECORDS; AUTHORITY OF HIGHWAY DEPARTMENT AND PUBLIC SAFETY DEPARTMENT TO MAKE; DESTRUCTION OF ORIGINAL RECORDS

Section 1. That the State Highway Department is hereby authorized to photograph, microphotograph, or film motor vehicle registration records, certificate of title records, highway planning survey records, accounting records including copies of labor and material payrolls, material shipping orders and supporting detail of quotations; and the Texas Department of Public Safety is hereby authorized to photograph, microphotograph, or film all records in connection with the issuance of operators' licenses, chauffeurs' licenses, and commercial operators' licenses and all records of the various divisions of the Texas Department of Public Safety, with the exception that no original fingerprint card or any evidence submitted in connection with a criminal case or any confession or statement made by the defendant in a criminal case shall be photographed or filmed for the purpose of disposing of the original records, and that whenever the State Highway Department or the Texas Department of Public Safety shall have photographed, microphotographed or filmed such records and whenever such photographs or microphotographs or films shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, the State Highway Department or the Texas Department of Public Safety may cause the original records from which the photographs, microphotographs or films have been made to be disposed of or destroyed.

Sec. 2. Photographs or microphotographs or films of any record photographed, microphotographed or filmed, as herein provided, shall have the same force and effect as the originals

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thereof would have had, and shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. Duly certified or authenticated copies of such photographs or microphotographs or films shall be admitted in evidence equally with the original photographs or microphotographs or films.

Sec. 2a. The State Highway Engineer, for the State Highway Department, and the Director of the Texas Department of Public Safety, for the Texas Department of Public Safety, or their duly authorized representatives are hereby authorized to certify to the authenticity of any photograph or microphotograph herein authorized and shall make such charges therefor as may be authorized by law. Such certified records shall be furnished to any person who is entitled to receive the same under the law. (As Amended Acts 1965, 59th Leg., Ch. 77, P. 192)

Sec. 3. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional. (Acts 1945, 49th Leg., p. 57, c. 39.)

ART. 6674o. MAINTENANCE OF DETOUR ROADS

Section 1. From and after the taking effect of this Act, it shall be the duty of the State Highway Department, wherever construction on any part of the State System of Highways is being carried on and it becomes necessary to close such roads under construction to traffic, to provide for the convenience of the public by the selection and improvement and maintenance of an all-weather detour road, to be used and controlled during the period of such State use under like conditions and authority as exercised over parts of the designated system of State Highways; and the Highway Commission shall provide for the equipment of such detour roads in a manner adequate to the convenience and safety of the normal traffic diverted thereupon; counties are hereby required to render the State Highway Commission such cooperation as may be necessary for adequate provision for the traffic requirements of the public in the selection and maintenance of all such detour roads in or through the county.

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Sec. 2. From and after the taking effect of this Act, it shall be the duty of any County Commissioners' Court in this State wherever construction upon any part of the County System of Public Roads, not parts of the designated State System of Highways, is being carried on and it becomes necessary to close such roads under construction to traffic, to provide for the convenience of the public by the selection and use of a detour road, to be controlled and maintained during the period of such county use under like conditions of authority as exercised over an established public road.

Sec. 3. In all such provisions for detour roads by State Highway Commission, and in all provisions for detour roads by County Commissioners' Courts it shall be the duty of the State Highway Commission, or Commissioners' Court, as the case may be, to post all necessary signboards for the convenience and guidance of the public at each end of such detour road, and provide with reasonable adequacy for the maintenance of the detour roads in a manner to respond to normal traffic requirements passing over such State highways or such county roads. (Acts 1929, 41st Leg., p. 59, ch. 25.)

ART. 2039a. CITATION OF NONRESIDENT MOTOR VEHICLE OPERATORS BY SERVING CHAIRMAN OF STATE HIGHWAY COMMISSION; FORWARDING NOTICE TO DEFENDANT

Acceptance of benefits of highways deemed equivalent to appointment of agent; service

Section 1. The acceptance by a nonresident of this State or by a person who was a resident of this State at the time of the accrual of a cause of action but who subsequently removes therefrom, or the acceptance by his agent, servant, employee, heir, legal representative, executor, administrator or guardian of the rights, privileges and benefits extended by law to such persons of operating a motor vehicle or motorcycle or of having the same driven or operated within the State of Texas shall be deemed equivalent to an appointment by such nonresident and of his agent, servant, employee, heir, legal representative, executor, administrator or guardian, of the Chairman of the State Highway Commission of this State, or his successor in office, to be his true and lawful attorney and agent upon whom may be served all lawful process in any civil action or proceeding now pending or hereafter instituted against

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said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, growing out of any accident, or collision in which said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, may be involved while operating a motor vehicle or motorcycle within this State, either in person or by his agent, servant, employee, heir, legal representative, executor, administrator or guardian, and said acceptance or operation shall be a signification of the agreement of said nonresident, or his agent, servant, employee, heir, legal representative, executor, administrator or guardian, that any such process against him or against his agent, servant, employee, heir, legal representative, executor, administrator or guardian, served upon said Chairman of the State Highway Commission or his successor in office, shall be of the same legal force and validity as if served personally.

Service of such process shall be made by leaving a certified copy of the process issued in the hands of the Chairman of the State Highway Commission in Texas at least twenty (20) days prior to the return date thereof, to be stated in said process, and such service shall be sufficient upon said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, provided, however, that notice of such service and a copy of the process be forthwith sent by registered mail by the Chairman of the State Highway Commission of the nonresident defendant, his agent, servant, employee, heir, legal representative, executor, administrator or guardian. (As amended Acts 1959, 56th Leg., p. 1103, ch. 502, § 1.)

Forwarding process; notice; return

Sec. 2. It shall be the duty of the Chairman of the State Highway Commission of the State of Texas, upon being served with process as provided in Section 1 of this Act, to immediately enclose copy of the process served upon him in a letter properly addressed to the defendant, or to his agent, servant, employee, heir, legal representative, executor, administrator or guardian, and shall forward the same by registered mail, postage prepaid. If and in the event notice of service of the process upon the Chairman of the State Highway Commission cannot be effected by registered mail or if the person to whom it is addressed refuses to accept or receive the same,

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then the plaintiff may cause the defendant to be served with a notice of the fact that the process has been served upon the Chairman of the State Highway Commission, stating the date of the service thereof, which notice shall also be accompanied with a certified copy of the process so served upon said Chairman of the State Highway Commission. Such notice may be served by any disinterested person competent to make oath of the fact by delivering to the person to be served in person a true copy of such notice, together with a certified copy of the process served upon the Chairman of the State Highway Commission. The return of service in such case shall be endorsed on or attached to the original notice stating when it was served and upon whom it was served and it shall be signed and sworn to by the party making such service before any person authorized by the Statutes of this State to make affidavit under the hand and official seal of such officer. (As amended Acts 1953, 53rd Leg., p. 72, ch. 53, § 1.)

Return

Sec. 3. The officer serving such process upon the Chairman of the State Highway Commission, shall in his return state the day and hour of the service upon the Chairman of the State Highway Commission of such process and such other facts as are now required to be made in his return as in the case of service of citations generally.

Certificate of Chairman of Highway Commission

Sec. 4. The Chairman of the State Highway Commission shall upon request of a party and upon the payment of a fee of Three Dollars (\$3), to certify to the court out of which said process is issued or in which any suit or action may be pending against such nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, the occurrence or performance of any of the duties, acts, omissions, transactions or happenings contemplated or required by this Act, including the wording of any registered letter received, and his certificate, as well as the wording of said registered letter receipt, shall be accepted as prima facie evidence and proof of the statements contained therein. (As amended Acts 1953, 53rd Leg., p. 72, ch. 53, § 1.)

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Judgment by default

Sec. 5. No judgment by default shall be taken in any such cause or action, suit or proceeding, until after the expiration of at least twenty days after such process shall have been served upon the Chairman of the State Highway Commission as herein provided, and the presumption shall obtain, unless rebutted, that such process was transmitted by the Chairman of the State Highway Commission and received by the defendant after being deposited in the mail by the Chairman of the State Highway Commission.

Continuance or postponement

Sec. 6. The court in which the action or proceeding is pending shall have the right to continue or postpone said action or proceeding, as may be necessary to afford the defendant reasonable opportunity to defend the action. (Acts 1929, 41st Leg., p. 279, ch. 125; Acts 1933, 43rd Leg., p. 145, ch. 70.)

ART. 6144e. ADVERTISING THE STATE OF TEXAS

Creation of the Texas Development Board

Section 1. There is hereby created the Texas Development Board whose members shall be the Governor of Texas, acting as Chairman, the Chairman of the Texas Industrial Commission and the Chairman of the Texas Highway Commission.

Duties of the Board

Sec. 2. (a) The Texas Development Board shall be charged with the duty of submitting an advertising budget to the Legislature at each Regular Session, and shall establish the necessary procedure for close correlation of travel advertising which will be implemented and administered by the Texas Highway Department; and industrial advertising, which shall be implemented and administered by the Industrial Commission.

(b) The Texas Development Board shall submit a request to the Legislature at the beginning of each Regular Session recommending an appropriation from the General Fund to the Texas Highway Department for space advertising for the promotion of travel in the State of Texas and an appropriation to

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the Texas Industrial Commission for space advertising and for the promotion of industrial expansion in the State of Texas.

(c) Any appropriation made by the Legislature to either the Industrial Commission or the Texas Highway Department, to carry out the purpose of this Act, in excess of One Hundred Thousand Dollars (\$100,000.00) for each year of the biennium, shall be matched by equal contributions from private sources and industry prior to any expenditure from said excess fund for a cooperative program of advertising. In order to prevent any corporation or enterprise from dominating any matching funds appropriated by the Legislature, no more than ten percent (10%) of said matching fund may be used during any one year for the purpose of fulfilling advertising agreements with any one individual, association, or corporation.

(d) The Texas Development Board shall have the approval of the employment of any advertising agency or agencies contracted to handle the advertising program by the Highway Department and the Industrial Commission as envisioned by this Act.

Duties of the Texas Highway Department

Sec. 3. (a) For the purpose of dissemination of information relative to highway construction, repair, maintenance, and upkeep, and for the purpose of advertising the highways of this state and attracting traffic thereto, the Department is empowered to compile and publish, for free distribution, such pamphlets, bulletins, and documents as it will deem necessary and expedient for informational and publicity purposes concerning the highways of the state, and with respect to public parks, recreational grounds, scenic places, and other public places and scenic areas or objects of interest, data as to distances, historical facts, and other items or matters of interest and value to the general public and road users; and said Department is authorized and empowered to make or cause to be made from time to time a map or maps showing thereon the highways of the state and the towns, cities, and other places of interest served and reached by said highways, and may cause to be printed, published, and prepared in such manner or form as the Department may deem best, all of such information and data and provide for the distribution and dissemination of the same in such manner and method and to such extent

as in the opinion of the Department will best serve the motoring public and road users. The Department shall maintain and operate Travel Information Bureaus at the principal gateways to Texas for the purpose of providing road information, travel guidance, and various descriptive materials, pamphlets, and booklets designed to furnish aid and assistance to the traveling public and stimulate travel to and within Texas. The Texas Highway Department is authorized and empowered to pay the cost of all administration, operation, and the cost of developing and publishing various material and the dissemination thereof, including the cost of operating Travel Information Bureaus from highway revenues. The Texas Highway Department is further empowered to receive and administer a legislative appropriation from the general fund for the specific purpose of purchasing advertising space in periodicals of national circulation, and/or time on broadcasting facilities. The Department shall have the power to enter into contracts with a recognized and financially responsible advertising agency, having a minimum of five years of experience in handling accounts of similar scope, and for the contracting of space in magazines, papers, and periodicals for the publication of such advertising information, historical facts, statistics and pictures as will be useful and informative to persons, and corporations outside the State of Texas, and shall have the power to enter into contracts with motion picture producers and others for the taking of moving or still pictures in the state, and provide for the showing of the films when taken, and the Department may join with other governmental departments of the state in publishing such informational publicity matter.

(b) The Highway Department may accept contributions for the above purposes from private sources, which funds may be deposited in a bank or banks to be used at the discretion of the Department in compliance with the wishes of the donor. (Acts 1959, 56th Leg., p. 432, ch. 193, § 1-3.)

Note: Remainder of Article deals with Duties of the Texas Industrial Commission.

ART. 833 PC. FORBIDDING USE OF HIGHWAY

The County Commissioners of any precinct, or County Road Superintendent of any county, or road Supervisor whose road is affected, or the State Highway Commission, may have the

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authority by posting notices on the highways or roads under their respective control when from wet weather or recent construction or repairs such cannot be safely used without probable serious damage to same, or when the bridge or culverts on same are unsafe, to forbid the use of such highway or section thereof by any vehicle or loads of such weight or tires of such character as will unduly damage such highway. The notices provided for herein shall state the maximum load permitted and the time such use is prohibited and shall be posted upon the highway in such place as will enable the drivers to make detours to avoid the restricted highways or portions thereof; provided no road shall be closed until detours have been provided.

If the owner or operator of any such vehicle feels himself aggrieved by such action, he may complain in writing to the County Judge of such county, setting forth the nature of his grievance. Upon the filing of such complaint the County Judge shall forthwith set down for hearing the issue thus raised for a day certain, not more than three days later, and shall give notice in writing to such official of the day and purpose of each hearing, and at such hearing the County Judge shall hear testimony offered by the parties respectively, and upon conclusion thereof, shall render judgment sustaining, revoking or modifying such order heretofore made by the County Road Superintendent or Road Supervisor, or the State Highway Commission, and the judgment of the County Judge shall be final as to the issues raised. If upon such hearing the judgment sustains the order of the County Road Superintendent or road Supervisory and it appears that any violation of same has been committed by the complainant since posting such notices, he shall be subject to the same penalty hereinafter provided for such offense as if the same had been committed subsequent to the rendition of such judgment made upon such hearing.

Any party guilty of violating the provisions and directions of any such order or notice of the County Road Superintendent or road Supervisor, or the State Highway Commission, before or after it has been so approved by such judgment of the County Judge shall be fined not exceeding Two Hundred Dollars. (Acts 1st C.S. 1921, p. 170; Acts 1923, p. 160; Acts 1929, 41st Leg., p. 660, ch. 294, § 1.)

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Art. 827a PC, Sec. 5-1/2

ART. 827aPC, SEC. 5 1/2. FARM-TO-MARKET AND RANCH-TO-MARKET ROADS -- HIGHWAY COMMISSION TO FIX LOADS

Sec. 5-1/2. The State Highway Commission shall have the power and authority upon the basis of an engineering and traffic investigation to determine and fix the maximum gross weight of vehicle, or combination thereof, and load as well as the maximum axle and wheel loads, to be transported or moved on, over or upon any State highway or any road that has been classified by the Highway Commission and shown by the records of the Commission as a Farm-to-Market or Ranch-to-Market Road under the jurisdiction of the State Highway Commission, at less than the maximums hereinbefore fixed by law, taking into consideration the width, condition and type of pavement structures and other circumstances on such road, when it is found that greater maximum weights would tend to rapidly deteriorate or destroy the roads, bridges or culverts along the particular road or highway sought to be protected. Whenever the State Highway Commission shall determine and fix the maximum gross weight of vehicle, or combination thereof, and load or maximum axle and wheel loads, which may be transported or moved on, over or upon any such State Highway or Farm-to-Market or Ranch-to-Market road at a less weight than the respective maximums hereinbefore set forth in this Act and shall declare such maximums by proper order of the Commission entered on its minutes, such gross weight of vehicle, or combination thereof, and load and maximum axles and wheel loads shall become effective and operative on said highway or road when appropriate signs giving notice thereof are erected under the order of the Commission on such State highway or Farm-to-Market or Ranch-to-Market road.

The Commissioners Court of any county shall have the same power and authority to limit the maximum weights to be transported or moved on, over or upon any county road, bridge or culvert that is given by this Act to the State Highway Commission with respect to State highways and State Farm-to-Market roads. The Commissioners Court shall exercise its authority with respect to county roads in the same manner and under the same conditions as provided herein for the State Highway Commission with respect to highways and roads under its jurisdiction, and its action shall be entered on its minutes and become effective and operative on county roads when appropriate signs giving notice thereof are erected on such roads in accordance with the order of the Commissioners Court.

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It shall be unlawful for and constitute a misdemeanor for any person, corporation, receiver or association to drive, operate or move, or for the owner to cause or permit to be driven, operated or moved, on any such highway or road any vehicle, or combination of vehicles, which in any respect exceeds the maximum gross weight or maximum axle or wheel loads fixed for any such highway or road by the State Highway Commission or a Commissioners Court in accordance with the terms of this Section. Any person, corporation, receiver, or association who commits the violation heretofore set out shall, upon conviction, be subject to and punished by the same fines and penalties for the first and subsequent offenses as are set out in Section 5 of House Bill No. 19, Chapter 71, Acts of the Forty-seventh Legislature, Regular Session, 1941, (codified in Vernon's as Section 9c of Article 827a of the Penal Code).

Provided, however, that nothing in this Act shall in anywise alter, amend or repeal any law of this State authorizing or providing for special permits for weights in excess of those provided by law or fixed under this Act.

Provided, further, that this Section shall not apply to vehicles making deliveries of groceries or farm products to destinations requiring travel over such roads; but, if for any reason this exception is unconstitutional or invalid, it is the intention of the Legislature to enact, and it does here and now enact and pass, this Act without such exception; and if it be invalid, such exception alone shall fall and be held for naught, and the remainder of the Act shall be and remain unimpaired, and it is so enacted.

ART. 827e PC. TRAFFIC SIGNALS ON STATE HIGHWAYS OUTSIDE CITIES AND TOWNS

Section 1. There may be installed at such points on State Highways as may be approved and directed by the State Highway Engineer of the State of Texas, signal units to be used as a means of controlling and regulating traffic, both vehicular and pedestrian, by the use of lights placed in such units. Such lights shall consist of red lights, amber (yellow) lights and green lights. Said signal unit shall be suspended above the center of said State Highways and installed under the direction of the State Highway Engineer, or any resident engineer of the State Highway Department.

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At the display of the red light all traffic approaching such displayed light shall come to a complete stop; at the display of the amber (yellow) light, traffic shall prepare to move forward, and at the display of the green light traffic shall proceed to move forward.

Sec. 2. Any person who shall fail to stop after approaching a signal unit which has been installed and is being operated when the red light signal or the amber (yellow) signal is displayed on the side of such signal toward which he is approaching, shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine in any sum not to exceed Two Hundred (\$200.00) Dollars.

Sec. 3. It shall not be necessary for the State to prove the installation of such signal units, or the approval and direction of the State Highway Engineer, but any person charged with a violation of this Act shall have the right to prove same was not so approved and installed as a defense.

Sec. 4. This Act shall not apply to, or be construed as in conflict with any city ordinance of any incorporated city or town within this State, but shall be construed as applying only to points on State Highways outside the limits of incorporated cities and towns. (Acts 1937, 45th Leg., p. 47, ch. 35.)

PENAL STATUTES

ART. 1350 PC. INJURY OR DESTRUCTION OF PROPERTY OF ANY KIND BELONGING TO ANOTHER

(1) (a) It shall be unlawful for any person to wilfully injure or destroy, or attempt to injure or destroy, any property belonging to another, of any kind whatsoever, without the consent of the owner and lienholder, if any, thereon.

(b) It shall be unlawful for any person to wilfully injure or destroy, or attempt to injure or destroy, any property belonging to the State of Texas, any county, city, town, village, school district, or any other district or political subdivision of this State or any property belonging to any department, board, commission, or agency of the State or any such county, city, town, village, district, or political subdivision, of any kind whatsoever, without the consent of the person in charge of such property.

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(2) Whenever the law provides a particular punishment for the wilful injury or destruction by a certain means, such as by burning, or whenever a particular punishment is provided for wilful injury or destruction of a certain type of property, such as fences, the provisions of this Act shall not be applicable.

(3) Whoever shall violate the provisions of Subdivision (1) hereof shall be punished as follows:

(a) When the value of the property destroyed or the extent of the injury inflicted is of the value of Fifty (\$50.00) Dollars, or over, he shall be confined in the penitentiary not less than two (2) nor more than twenty (20) years.

(b) When the value of the property destroyed or the extent of the injury inflicted is under the value of Fifty (\$50.00) Dollars, he shall be fined not exceeding One Thousand (\$1,000.00) Dollars or be confined in the county jail for not more than one (1) year, or be both fined and imprisoned.

(c) If any bodily injury less than death is suffered by any one by reason of the commission of the offense, the punishment may be increased so as not to exceed double that which is prescribed in cases where no such injury is suffered.

(d) Where death is occasioned by the offense, the offender is guilty of murder. (Acts 1889, p. 35; Acts 1927, 40th Leg., p. 254, ch. 176, § 1; Acts 1951, 52nd Leg., p. 823, ch. 468, § 1; Acts, 1957, 55th Leg., Reg. Session, ch. 174.)

ART. 784 PC. OBSTRUCTING PUBLIC ROAD, STREET, ETC.

Whoever shall wilfully obstruct or injure or cause to be obstructed or injured in any manner whatsoever any public road or highway or any street or alley in any town or city, or any public bridge or causeway, within this State, shall be fined not exceeding two hundred dollars. (Acts 1860, p. 97; Acts 1913, p. 258.)

ART. 1347 PC. THROWING GLASS, ETC. IN ROAD

Whoever throws or deposits in or on any public road, street or alley, or any public highway any glass bottles, glass, nails, tacks, hoops, wire, cans or any other substance likely to injure any person, animal, automobile or any vehicle upon such highway shall be fined not to exceed two hundred dollars. (Acts 1913, p. 131, Acts 1917, p. 483.)

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ART. 696a PC. DUMPING REFUSE NEAR HIGHWAY

Definitions

Section 1. The following terms, as herein defined, shall control in the construction and enforcement of this Act:

(a) The term "refuse" shall include garbage, rubbish, and all other decayable and non-decayable waste, including vegetable, animal and fish carcasses, except sewage from all public and private establishments and residences.

(b) The term "garbage" shall include all decayable waste, including vegetable, animal and fish offal and carcasses of such animals and fish, except sewage and body wastes, but excluding industrial by-products, and shall include all such substances from all public and private establishments and from all residences.

(c) The term "rubbish" shall include all non-decayable wastes, except ashes, from all public and private establishments and from all residences.

(d) The term "junk" shall include all worn out, worthless and discarded material, in general, including, but not limited to, odds and ends, old iron or other metal, glass, paper, cordage or other waste or discarded materials.

(e) The term "public highway" shall mean and include the entire width between property lines of any road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, when any part thereof is opened to the public for vehicular traffic or which is used as a public recreational area and/or over which the state has legislative jurisdiction under its police power.

Unlawful acts

Sec. 2.

A. It shall be unlawful for any municipal corporation, private corporation, firm or person to dump, deposit, or leave any refuse, garbage, rubbish or junk on any public highway in this State, or county roads.

B. It shall be unlawful for any municipal corporation, private corporation, firm or person to dump, deposit, or leave any refuse, garbage, rubbish or junk within or nearer than three hundred (300) yards of any public highway in this State, whether the refuse, garbage, rubbish, or junk being dumped, deposited, or left, or the land upon which refuse, garbage, rubbish or junk is dumped, deposited or left belongs to the person or persons so dumping, depositing or leaving it or not.

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C. The provisions of Subsection B of this Section shall not apply when such refuse, garbage, rubbish or junk is processed and treated in accordance with rules and standards promulgated by the State Department of Health.

D. The provisions of this Act shall not affect farmers in the handling of anything necessary in the growing, handling and care of livestock, or the erection, operation and maintenance of any and all such improvements that may be necessary in the handling, threshing and preparation of any and all agricultural products.

E. The State Department of Health shall promulgate rules and standards regulating the processing and treating of refuse, garbage, rubbish or junk dumped, deposited or left within or nearer than three hundred (300) yards of any public highway in this State. (HB 691, Acts 58th Leg., 1963)

Punishment; injunction; enforcement

Sec. 3. Any violation of this Act by any person, firm or private corporation, shall upon conviction, subject the offender to a fine of not less than Ten Dollars (\$10) and not more than Two Hundred Dollars (\$200), and each day of any such violation shall be treated as a separate offense. In the event of any threatened or probable violation of this Act by any public corporation, municipality, city, town or village, it shall be the duty of the County or District Attorney in the county in which such violation is threatened, to bring suit for injunction to prevent such threatened or probable violation. Any person affected or to be affected by any such threatened or probable violation shall have the right to enjoin such violation or threatened violation. The enforcement of the remedy hereinabove provided by injunction shall not prevent the enforcement of the other penalties provided in this Act.

Repeal

Sec. 4. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict.

Liberal construction

Sec. 5. This Act and all of the terms and provisions herein shall be liberally construed to effect the purposes set forth herein:

Partial invalidity

Sec. 6. If any provision of this Act or the application thereof to any person or substance shall be held to be invalid, the

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remainder of this Act and the application of such provisions to other persons or substances shall not be affected thereby. (Acts 1927, 40th Leg., 1st C.S., p. 153, ch. 53; Acts 1947, 50th Leg., p. 328, ch. 188, § 1; Acts 1957, 55th Leg., Reg. Session, ch. 230.)

ART. 784a-1 PC. FISHING FROM, OR LEAVING DEAD FISH, CRABS, OR BAIT UPON, ROAD SURFACE OR BRIDGE

From and after the effective date of this Act it shall be unlawful for any person to engage in fishing from, or to deposit or leave any dead fish, crabs, or bait upon, the road surface or deck of any causeway, or bridge located on any highway which is being maintained by the State Highway Department. Provided that it shall be legal to fish from any section of such structure other than the deck or road surface. (Acts 1939, 46th Leg., Spec. L., p. 834, § 1.)

ART. 784a-2 PC. PENALTY

Any person who shall violate the terms of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than One Dollar (\$1) nor more than Fifty Dollars (\$50). (Acts 1939, 46th Leg., Spec. L., p. 834, § 2.)

ART. 784a-3 PC. POSTING OF SIGNS

The State Highway Commission, through and by its authorized agents or representatives, is hereby instructed to post signs on every causeway, bridge, or structure affected by this Act. (Acts 1939, 46th Leg., Spec. L., p. 834, § 3.)

ART. 6674u. BARRICADES AND WARNING SIGNS; TAMPERING WITH OR DISREGARDING

Section 1. The following words when used in this Act shall for the purpose of this Act have the meanings respectively ascribed to them in this section as follows:

"Barricade." Every barrier, obstruction, or block placed upon or across any road, street or highway of this State by the State Highway Department, or any political subdivision of the State, or by any contractor or sub-contractor doing road,

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street or highway construction or repair work on said road, street or highway under or by authority of the State Highway Department or any political subdivision of the State, for the purpose of obstructing and preventing the passage of motor vehicles over such street, road or highway during the period of construction or repair to said street, road or highway.

"Warning Sign." Every sign, signal, marking, and device erected or placed upon any street, road or highway barricade, or erected or placed upon any street, road or highway which is under construction or being repaired in any way by the State Highway Department or any political subdivision of the State, or any contractor or sub-contractor doing road, street or highway construction or repair work, for the purpose of regulating, warning or guiding motor vehicular traffic or otherwise stating the conditions under which traffic by motor vehicle may be had upon such street, road or highway. A warning sign shall include, but shall not be limited to, a flagman placed upon any street, road or highway by the State Highway Department or any political subdivision of the State or by any contractor or sub-contractor for the purpose of directing traffic around or upon such street, road or highway as is under construction or in the process of being repaired.

Sec. 2. It shall be unlawful for any person to in any way tamper with, move, damage or destroy any barricade placed upon any road, street or highway by the State Highway Department or any political subdivision of the State, or by any contractor or sub-contractor doing road, street or highway construction or repair work under or by authority of the State Highway Department or any political subdivision of the State; or for any person to disobey the instructions, signals, warnings or markings of any warning sign placed upon any street, road or highway barricade or placed upon any street, road or highway under construction or being repaired under the provisions and authority of this Act, unless at the time otherwise directed by a police officer. Provided, however, the provisions of this Act shall not apply to employees of the State Highway Department or any political subdivision of the State, or any contractor or sub-contractor or other person whose proper and lawful duties make it necessary for them to go beyond or around any barricade and to enter upon any portion of a street, road or highway which is under construction or in the process of being repaired.

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Sec. 3. Any person who shall violate any provision of this Act shall, upon conviction, be fined not less than One (\$1.00) Dollar nor more than Two Hundred (\$200.00) Dollars, and each and every violation shall constitute and be a separate offense.

Sec. 4. In case any section, sentence or clause of this Act shall be declared unconstitutional, invalid, null, void or inoperative, the other sections, sentences, and clauses shall nevertheless remain in full force and effect just as though the section, sentence or clause so declared unconstitutional, invalid, void, null or inoperative was not originally a part hereof. (Acts 1953, 53rd Leg., p. 706, ch. 270.)

ART. 6674u-1. Sec. 1-3. TRAFFIC WARNING DEVICES---
DAMAGING

Section 1. In this Act,

(1) "Street or highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open for public use for purposes of vehicular travel or when under construction or repair and intended for public use for purposes of vehicular travel upon completion, and includes the space above and below the surface of a street used for all proper street purposes or under construction for use;

(2) "Person" means every natural person, firm, co-partnership, association, or corporation and/or any officer, agent, independent contractor, employee, servant or trustee thereof;

(3) "Political subdivision" includes every county, municipality, local board, or other body of this State having authority to authorize the construction or repair of streets, highways or roads under the constitution and laws of this State;

(4) "Contractor" means every person engaged in the construction or repair of any street, highway or road of this State under contract with the State or any political subdivision of the State;

(5) "Public utility" means all telegraph, telephone, water, gas, light and sewage companies or cooperatives, or their contractors, and any other business presently or hereinafter recognized by the Legislature as a public utility.

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Sec. 2. (a) No person may damage, remove, deface, carry away, or interfere or tamper with a barricade, flare pot, sign, flasher signal or any other device warning of construction, repair or detour on or adjacent to streets or highways of this State, after the device has been set out by a contractor or by the State or a political subdivision of the State or by a public utility.

(b) Subsection (a) of this section does not apply to any of the following persons acting within the scope and duty of their employment:

- (1) an officer, agent, independent contractor, employee, servant, or trustee of the State;
- (2) an officer, agent, independent contractor, employee, servant, or trustee of a political subdivision of the State;
- (3) a contractor or a public utility.

Sec. 3. A person who violates a provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$1000, or by imprisonment in the county jail for not more than two years or both. (Acts 1965, 59th Leg., ch. 65, p. 159)

ART. 1370a PC. ANIMALS RUNNING AT LARGE ON STATE HIGHWAYS: ENFORCEMENT NOTWITHSTANDING OTHER LAWS

Section 1. Any person owning or having responsibility for the control of any horse, mule, donkey, cow, bull, steer, hog, sheep, or goat, who knowingly permits such animal to traverse or roam at large, unattended, only on the right-of-way of any U. S. Highway, or State Highway in this state but not including numbered farm-to-market roads, shall be guilty of a misdemeanor, and shall be fined in any sum not exceeding Two Hundred Dollars (\$200.00). Each day that an animal is permitted to roam at large in violation hereof shall constitute a separate offense.

Sec. 2. No civil cause of action for damage shall lie against any person, firm or corporation operating a vehicle on a designated highway in this state by reason of such vehicle's striking, killing, injuring or damaging any unattended animal running at large on a designated highway, except upon a finding of gross negligence in the operation of said vehicle or wilful intent to strike, kill, injure or damage such animal.

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Sec. 3. This Act shall not prevent the movement of livestock from one location to another location by herding the livestock on, along or across the highway, or leading or driving the livestock on, along or across the highway.

Sec. 4. In addition to the penalty provided in Section 1 of this Act, any peace officer may authorize in writing any holder of a permit issued by the Railroad Commission granting authority to haul livestock, to pick up any livestock found unattended upon a designated highway to which this Act applies if the officer, after diligent inquiry, has been unable to locate the owner or persons responsible for the livestock. The livestock so picked up shall be delivered to the sheriff or any constable of the county where found. The sheriff or constable so receiving livestock shall make disposition of the livestock as provided in Title 121, Chapter 6, Revised Civil Statutes of Texas, 1925, which provides for the proper disposition of livestock running at large in certain counties, including, but not limited to, the authorization of impounding fees.

Sec. 5. The State Highway Patrolmen, as well as county and local enforcement officers, shall have the power and authority, and it shall be their duty to enforce all the provisions of this Act. The State Highway Patrolmen, sheriff, constable, or other enforcement officer, is authorized to carry out the enforcement of this Act without the use of a written warrant. Notwithstanding the provisions of Articles 6928 to 6971, inclusive, of the Revised Civil Statutes of 1925, or any amendments thereto, or any other laws heretofore enacted authorizing or permitting livestock to run at large on public roads, and notwithstanding the results of any elections heretofore, or hereafter held in accordance therewith, this Act shall be controlling in all cases wherein it conflicts with the above-mentioned statutes or any action taken thereunder, provided, however, that this Act shall not take effect until July 1, 1960. (As amended Acts 1959, 56th Leg., p. 835, ch. 374, § 1.)

ART. 6327. CROSSINGS OF PUBLIC ROADS

Every railroad company in this State shall place and keep that portion of its roadbed and right of way, over or across which any public county road may run, in proper condition for the use of the traveling public, and in case of its failure to do so for thirty days after written notice given to the section boss

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of the section where such work or repairs are needed by the overseer of such public road, it shall be liable to a penalty of ten dollars for each week such railroad company may fail or neglect to comply with the requirements of this article. Such penalty shall go to the road and bridge fund of the county in which the suit is brought; and the county attorney, upon the making of an affidavit of the facts by any person, shall at once institute against the company violating any provision of this article suit in the proper court to recover such penalty or penalties, and his wilful failure or refusal to do so shall be sufficient cause for his removal from office, unless it is evident that such suit could not have been maintained. The proceedings under this article shall be conducted in the same manner as civil suits. The county attorney attending to such suits shall be entitled to a fee in each case of ten dollars, to be taxed as costs; provided, that when two or more penalties are sought to be recovered in the same suit, but one such fee shall be allowed. Such suits shall be conducted in the name of the county, and if the county be cast in the suit no costs shall be charged against it. (Acts 1885, p. 45; G.L. vol. 9, p. 665.)

ART. 787 PC. OBSTRUCTING RAILWAY CROSSING

Any officer, agent, servant or receiver of any railway corporation who wilfully obstructs for more than five minutes at any one time any street, railway crossing or public highway by permitting their train to stand on or across such crossing, shall be fined not less than five nor more than one hundred dollars. (Acts 1st C.S. 1921, p. 34.)

ART. 842 PC. UNLAWFULLY DIVERTING WATER

No person, association of persons, corporation, water improvement or irrigation district shall take or divert any of the water of the ordinary flow, underflow, or storm flow of any stream, water course or watershed in this State into any other natural stream, water course or watershed, to the prejudice of any person or property situated within the watershed from which such water is proposed to be taken or diverted.

Before any person, association of persons, corporation, water improvement or irrigation district shall take any water from any natural stream, water course, or watershed in this State into any other watershed, such person, association of

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persons, corporation, water improvement or irrigation district shall make application to the Board of Water Engineers for a permit so to take or divert such waters, and no such permit shall be issued by the board until after full hearing before said board as to the rights to be affected thereby.

Whoever shall take or divert any waters from one natural stream, water course or watershed into any other watershed contrary to the provisions of this article, shall be fined not less than one hundred nor more than five hundred dollars or be imprisoned in jail for any term not exceeding six months. Each day that such taking or diversion shall continue shall be a separate offense. (Acts 1917, p. 231.)

ART. 1348 PC. REMOVING ROCK, ETC. FROM PREMISES

Whoever knowingly enters upon the land or premises of another and takes or removes therefrom any rock, earth, coal, slate or mineral of any kind, without the consent of the owner of such land or premises shall be fined not exceeding one thousand dollars. (Acts 1876, p. 28.)

ART. 1379 PC. CUTTING, DESTROYING, OR CARRYING AWAY TIMBER

Whoever, without the consent of the owner thereof, shall cut down or destroy any merchantable timber not his own, except by accident or mistake, or whoever, without the consent of the owner thereof, shall carry away any merchantable timber not his own, except by accident or mistake, shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. The words "merchantable timber" as used herein include rails or other articles manufactured from merchantable timber; the word "owner" includes the State and any corporation, public or private, individual, partnership, or association; the words "carry away" as used herein include any taking of any merchantable timber and the removal thereof any distance from the place of taking, with the intent to deprive the owner of the value of the same, and to appropriate it to the use and benefit of the person taking it. (As amended Acts 1939, 46th Leg., p. 241, § 1; Acts 1953, 53rd Leg., p. 1020, c. 420, § 1.)

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DEFINITIONS

ART. 6674a. DEFINITION OF TERMS

Then term "highway" as used in this Act¹ shall include any public road or thoroughfare or section thereof and any bridge, culvert or other necessary structure appertaining thereto. The term "improvement" shall include construction, reconstruction or maintenance, or partial construction, reconstruction or maintenance and the making of all necessary plans and surveys preliminary thereto. The term "Commission" refers to the State Highway Commission and the term "Department" refers to the State Highway Department. (Acts 1925, 39th Leg., ch. 186, p. 456, § 1.)

¹Articles 6674a-6674n.

ART. 6674w. PURPOSES AND DEFINITIONS

Purposes. The Legislature finds, determines and declares that the purpose of this Act is to delegate certain additional authority to the State Highway Commission to promote the Public Safety, to facilitate the movement of traffic, to preserve the financial investment of the public in its highways and to promote the National Defense.

Definitions. Wherever used in this Act, "Controlled Access Highway" means any designated State Highway within or without the limits of any incorporated city, town or village, whether under the General Laws or by special charter, including Home Rule Charter Cities, to or from which access is denied or controlled, in whole or in part, from or to abutting land or intersecting streets, roads, highways, alleys or other public or private ways.

Wherever used in this Act, "Person" means any person, individual, individuals, corporation, association, and/or firm. (Acts 1957, 55th Leg., Reg. Session, ch. 300.)

Ref: Applies to Arts. 6674w-1 - 6674w-5.

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ART. 6674q-1. DECLARATION OF POLICY OF STATE WITH REFERENCE TO BUILDING, MAINTAINING AND FINANCING STATE DESIGNATED ROADS

It is expressly recognized and declared that all highways now or heretofore constituting a part of the system of State Highways and that all roads not constituting a part of such system, which have been constructed in whole or in part from the proceeds of bonds, warrants, or other evidence of indebtedness issued by counties of the State of Texas, or by defined road districts of the State of Texas, under the laws authorizing the same, have been and are and will continue to be beneficial to the State of Texas at large, and have contributed to the general welfare, settlement, and development of the entire state, and that, by reason of the foregoing, a heavy and undue burden was placed, and still rests, upon the counties and defined road districts and their inhabitants, and both a legal and moral obligation rests upon the state to compensate and reimburse such counties and defined road districts which, as aforesaid, have performed functions resting upon the state, and have paid expenses which were and are properly state expenses; all for the use and benefit of the state, and to the extent provided herein that the state provide funds for the further construction of roads not designated as a part of the State Highway System.

Having heretofore, by an Act of the Legislature (Chapter 13, Acts of the Third Called Session of the 42nd Legislature in 1932), taken over, acquired, and purchased the interest and equities of the various counties and defined road districts in and to the highways constituting a part of the system of then designated State Highways, it is further declared to be the policy of the state to take over, acquire, purchase, and retain the interest and equities of the various counties and defined road districts in and to the highways, not previously taken over, acquired, and purchased and constituting on January 2, 1939, a part of the system of designated State Highways, and to acquire and purchase the interest and equities of the various counties and defined road districts in and to the roads not

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constituting a part of the system of designated State Highways as of January 2, 1939, and under the provisions of this Act to acquire such interest and equities in such roads hereafter to be constructed with moneys furnished by the state, and to reimburse said counties and districts therefor, and to provide for the acquisition, establishment, construction, extension and development of the system of designated State Highways of Texas, from some source of income other than the revenues derived from ad valorem taxes, it being expressly provided herein that the state is not assuming, and has not assumed, any obligation for the construction, extension, and development of any of the highways thus acquired and purchased which do not constitute a part of the system of designated State Highways. And it is hereby determined that the further provisions of this Act constitute fair, just, and equitable compensation, repayment, and reimbursement to said counties and defined districts and for their aid and assistance to the state in the construction of State Highways and for the construction of said roads which are ancillary to, but do not constitute a part of said System of State Highways, and fully discharges the legally implied obligations of the state to compensate, repay, and reimburse the agencies of the state for expenses incurred at the instance and solicitation of the state, as well as for expenses incurred for the benefit of the state, and fully discharges the state's legally implied obligation to such counties and defined road districts to provide additional funds for the further construction of roads not designated as a part of the State Highway System. (Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 1; Acts 1939, 46th Leg., p. 582, § 1; Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

ART. 6674q-2. DEFINITIONS

By the expression "defined road districts" or "road districts" or "districts" used in this Act,¹ is meant any defined road district of the state or any Justice or Commissioners Precinct acting as a road district or any road district located in one or more than one county.

By the expression "roads" or "road" as used in this Act, is meant roads, road beds, bridges, and culverts.

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- By the expression "highways," "State Highways" and "State Designated Highways" are meant roads which prior to January 2, 1939, had become a part of the System of designated State Highways, including roads still constituting a part of such system on said date and those which theretofore constituted a part of such system, but whose status had been lost through change, relocation or abandonment and including roads concerning which the State Highway Commission had prior to January 2, 1939, indicated its intention to designate, evidencing such intention in the official records or files.

All roads which prior to January 2, 1941, had not become a part of the system of State Designated Highways, for convenience in this Act, are called "lateral roads."

The term "Board" as used in this Act, when the contrary is not clearly indicated, shall mean the "Board of County and District Road Indebtedness."

The term "fund" as used in this Act, when the contrary is not clearly indicated, shall mean the "County and Road District Highway Fund."

The expression "eligible obligations" as used in this Act shall mean obligations, the proceeds of which were actually expended on State Designated Highways. (Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 2; Acts 1939, 46th Leg., p. 582, § 1; Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

¹ Articles 6674q-1 to 6674q-11.

ART. 6674q-4. IMPROVEMENTS UNDER CONTROL OF STATE HIGHWAY DEPARTMENT

Ref: See page 6 .

ART. 6674q-5. APPROPRIATIONS FROM STATE HIGHWAY FUND

All moneys now or hereafter deposited in the State Treasury to the credit of the "State Highway Fund" including all Federal Aid money deposited to the credit of said fund under the term

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of the Federal Aid Highway Act, shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said System of State Highways by the State Highway Department. (Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 4, (formerly § 5), renumbered and amended Acts 1939, 46th Leg., p. 582, § 1; Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

ART. 6674q-7. COUNTY AND ROAD DISTRICT HIGHWAY FUND; DISTRIBUTION; BOARD OF COUNTY AND DISTRICT ROAD INDEBTEDNESS CONTINUED; POWERS AND DUTIES; LATERAL ROAD ACCOUNT

(a) All bonds, warrants or other evidences of indebtedness heretofore issued by counties or defined road districts of this state, which mature on or after January 1, 1933, insofar as amounts of same were issued for and proceeds have been actually expended in the construction of roads that constituted and comprised a part of the system of designated State Highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the System of State Highways or any road that heretofore had constituted a part of said System and which has been or may be changed, relocated or abandoned, whether said indebtedness is now evidenced by the obligation originally issued or by refunding obligations or both, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund, subject to the provisions of this Act; provided, that such indebtedness, the proceeds of which have been expended in the construction of roads which have been designated as a part of the State Highway System after September 17, 1932, and prior to January 2, 1939, shall participate in said County and Road District Highway Fund as of the date of the designation of said road as a part of the State System; provided further that any participation in said fund by any county or defined road district shall be less than the amount of money which it was required to accumulate in the sinking fund under the provisions of the Statutes and order of the Commissioners Court authorizing the issue of said eligible obligations, and the tax levy authorized at the time of issuance thereof for the time such obligations have run or may have run,

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regardless of whether the full amount of said fund is, or may be, actually on hand and to the credit of the sinking funds of such county or defined road district. It is provided expressly in this connection that the term "sinking funds" shall include only those funds required under the law for the retirement of principal and interest, and shall not include any excess or surplus which may have been accumulated by any county or defined road district above the legal requirements. The amount of such eligible indebtedness shall be determined as hereinafter provided. Provided further, that no state funds created or provided for by the terms of this Act shall be expended in the payment of any interest maturing on the amount of sinking funds required by the terms of this Act to be accumulated by the county or defined road district at the date of eligibility of its obligations.

In the event that State Highway Commission has, on a date prior to January 2, 1939, recorded a conditional designation, and all conditions precedent to the official designation thereof have been met or performed in a manner satisfactory and acceptable to the Highway Commission, and the Highway Commission officially enters of record its acceptance and designation of such road as a part of the State Highway System for maintenance, then the provisions of this Act shall apply as if the said roads had been actually designated prior to January 2, 1939.

All bonds, warrants or other legal evidences of indebtedness outstanding as of the date of the designation hereinafter referred to, and issued by a county or defined road district prior to January 2, 1939, insofar as amounts of same were issued and the proceeds actually expended in the construction of roads that have been officially designated as a part of the State Highway System subsequent to January 2, 1939, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund as of the date of designation of said road as a part of the State Highway System. The amount of such bonds, warrants, or other legal evidences of indebtedness outstanding as of the date of designation of such road as a part of the State Highway System, shall be eligible for participation in the same manner as provided for other bonds under this Act.

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In addition to and regardless of the other provisions of this Act, all bonds, warrants or other legal evidences of indebtedness voted, or issued without being voted by a county, road district or defined road district prior to January 2, 1939, insofar as amounts of same were or may be issued and the proceeds actually expended in the construction of roads which are now a part of the designated System of State Highways or which have since, or which may hereafter become a part of the designated System of State Highways, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund the same as provided for other bonds under this Act, and as of the date of the designation of said road as a part of the State Highway System; and where such bonds or warrants were voted prior to January 2, 1939, and prior to the designation of the road as a State Highway and which have not yet been issued or expended, the county or defined road district may issue such bonds or warrants or other legal evidence of indebtedness and place the proceeds in escrow with the State Highway Commission for the construction of such road under plans, contracts, specifications and supervision of the State Highway Department, and when so expended the bonds, warrants, or other evidences of indebtedness shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds had been issued and expended prior to January 2, 1939. Provided, further, that all such bonds or warrants to be hereafter sold pursuant to this paragraph by a county or defined road district which will be eligible for participation in the County and Road District Highway Fund under the provisions of this Section, shall be sold subject to the approval of the Board of County and District Road Indebtedness, as to amounts, maturities and interest rates.

(b) The Board of County and District Road Indebtedness, created by Chapter 13, Acts of the Third Called Session of the 42nd Legislature, consisting of the State Highway Engineer, State Comptroller of Public Accounts, and State Treasurer, is hereby continued and charged with the duties of administering this Act. The State Comptroller of Public Accounts shall be the Secretary of said Board and said Board shall elect its own chairman from its membership. The Board shall adopt its own rules consistent with this Act for the proceedings held hereunder, and shall have authority to call to its assistance, in arriving at the amount of bonds, warrants, or other evidences

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of indebtedness eligible to participate in the County and Road District Highway Fund, any official or employee of this state, and shall avail itself of all data and information assembled in the administration of Chapter 13, Acts of the Third Called Session of the 42nd Legislature, and said Board is hereby authorized to call on any County Judge or any county or state official or employee, and shall have full access to all the records, books, and public documents for the purpose of obtaining any information which it may deem necessary and pertinent to its inquiry in arriving at the amount of bonds, warrants, or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund.

(c) It shall be the duty of the Board of County and District Road Indebtedness, from the data and information furnished by the County Judges of the State, and by the Chairman of the State Highway Commission and by the State Comptroller of Public Accounts, and from such further investigation as said Board may deem necessary to ascertain and determine the amount of indebtedness eligible under the provisions of this Section of this Act to participate in the moneys coming into said County and Road District Highway Fund. Whenever, in the case of any particular issue of obligations, the proceeds thereof shall have been expended partly on designated State highways, or highways heretofore constituting designated State Highways, and partly on roads which never have been designated State Highways, said Board shall ascertain and determine the amount of said obligations, the proceeds of which were actually expended on State Highways or on roads heretofore constituting State Highways, and said obligations to said amount and extent shall be eligible for participation in the moneys coming into the County and Road District Highway Fund; and said ascertainment and determination shall be certified to the County Judge by said Board and all of the unmatured outstanding obligations of said issue shall ratably have the benefit of said participation in said moneys. The ascertainment and determination by the Board of County and District Road Indebtedness, after reasonable notice and hearing, of the amount of any county or defined road district obligations eligible under the provisions of this Act to participate in any moneys coming into the County and Road District Highway Fund, or as to the amount of any obligations the proceeds of which were actually expended on State Highways, or on roads heretofore constituting State Highways, shall be final and

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conclusive and shall not be subject to review in any other tribunal. But said Board of County and District Road Indebtedness shall have the right at any time to correct any errors or mistakes it may have made.

(d) The Board shall make and keep a record of all county and defined road district eligible obligations, issue by issue, and a book shall be prepared and kept in which shall be recorded all eligible issues, maturity dates of principal and interest, rates of interest, and places of payment for each county and each defined road district. Each issue and the date pertaining to same shall be listed separately. The Board shall keep a record of all vouchers issued.

(e) The State Treasurer shall keep a separate account for each county and defined road district of any moneys received for the credit of said county or defined road district pursuant to the provisions hereof.

(f) A list shall be compiled by the Board of County and District Road Indebtedness showing the amount ascertained and determined by it to be eligible indebtedness of each county and defined road district, and a copy thereof shall be furnished to each County Judge in this state.

(g) From year to year, and not later than July 15th of each year, said Board shall ascertain and determine the sum necessary to pay the interest, principal and sinking fund requirements on all eligible obligations for the next succeeding calendar year, and shall estimate the sum which shall be applicable to the same, and shall not later than August 1st of each year, give notice to the County Judge of each county of the estimated amount available for application to said interest, principal, and sinking fund requirements. In the event the amount so estimated to be applied to the payment of eligible obligations for any county or defined road district is sufficient to meet all maturing interest, principal, and sinking fund requirements, the Commissioners Court may dispense with the collection of ad valorem levies for such calendar and/or fiscal year for such interest, principal, or sinking fund requirements. In the event the amount of payments so estimated to be applied is not sufficient to meet the maturing interest, principal, and sinking fund requirements, the County Commissioners Court shall collect from taxes on the property in said respective counties

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and defined road districts, an amount of money equal to the difference between the amount of such requirements and the amount available for application. In this connection it is declared to be the intent of the Legislature that all contractual duties and obligations which may exist between any county and/or defined road district and the owner or holder of the present outstanding indebtedness or any county and/or defined road district, shall not be in any manner disturbed or impaired and shall remain inviolate. Any tax heretofore provided to be levied in support of any present outstanding indebtedness affected by the provisions of this Act shall continue to be assessed, levied, and collected as originally provided; however, the collection of said tax may, by order of the Commissioners Court, be lessened and reduced by the payments made, and to be made, thereon and in behalf of such indebtedness out of the County and Road District Highway Fund, as herein provided, and as succeeding Legislatures shall, by appropriation, make provisions therefor. The entire proceeds of all taxes collected on any eligible issue of bonds shall be remitted by the County Treasurer of each county collecting the same, together with a statement of the amount collected, to the State Treasurer, and shall be held by the State Treasurer as ex-officio Treasurer of said county or defined road district for the benefit of the county or defined road district remitting the same, and be disbursed to meet the interest, principal, and sinking fund requirements on the eligible obligations of said county or defined road district.

In the event the amount of funds available to be applied to meet the maturing interest, principal, and sinking fund requirements in any calendar or fiscal year is not sufficient to satisfy such requirements, the moneys available in the County and Road District Highway Fund, as estimated and determined by the Board, shall be, for that calendar or fiscal year first applied to the payment and satisfaction of interest maturing on all eligible obligations during the particular calendar and/or fiscal year, and this payment is to be made ratably upon the interest on eligible obligations of the various counties or defined road districts; and if there is more of said moneys available than necessary to pay all of said interest, then such balance over the required interest payment for such year shall be distributed ratably to each issue of eligible obligations on the basis of the principal of eligible obligations and sinking fund requirements thereon maturing each year.

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(h) On September first of each year after the Board has paid off and discharged all eligible obligations maturing during the preceding fiscal year, together with the interest on such obligations and the sinking fund requirements accruing thereon out of the County and Road District Highway Fund, any surplus remaining in said Fund over and above Two Million Dollars (\$2,000,000) shall be set aside and credited by the State Treasurer to the respective funds hereinafter named as follows: One-half (1/2) of said surplus shall be credited to an account in the State Highway Fund to be known as the "Farm Highway Account," and one-half (1/2) shall be credited to an account to be known as the "Lateral Road Account," said funds to be distributed and expended as hereinafter provided.

All moneys deposited in the Farm Highway Account shall be used by the State Highway Commission to match any available funds, other than Federal funds, and all of said moneys shall be used for the sole purpose of constructing or improving farm-to-market roads, which said construction or improvements shall be done or made by the State Highway Commission and not by contract.

As soon as practicable after the passage of this Act and before the Lateral Road Account is allocated to the counties, the Board shall determine the amount each county and each defined road district has paid since January 1, 1933, under the provisions of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, as amended, toward its debt service upon bonds which at the time of payment were eligible to participate in the County and Road District Highway Fund, and shall deduct from the amount paid by such county or defined road district any and all advancements made by the Board to such county or defined road district in adjusting, refunding, or prepaying the eligible obligations of such county or defined road district, and after making such deductions the Board shall credit the Lateral Road Account of each county or defined road district with the net balance contributed by such county or road district toward the retirement of said eligible obligations and said funds so credited to any county or defined road district may be used or expended by the counties and defined road districts for the purposes authorized in this Section.

Not later than September fifteenth of each year the said Board shall ascertain the exact amount of money which has

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been allocated to the said Lateral Road Account for such fiscal year and which at that time is available. The Board shall allocate to each county its proportionate part of the moneys in said Lateral Road Account, which allocation shall be determined in the following manner:

(1) Two-tenths (2/10) of the moneys in said Account shall be allocated upon the basis of area, determined by the ratio of the area of the county to the total area of the State.

(2) Four-tenths (4/10) of the moneys in said Account shall be allocated on the basis of rural population according to the last preceding Federal Census, determined by the ratio of the rural population of the county to the total rural population of the State.

(3) Four-tenths (4/10) of the moneys in said Account shall be allocated to the counties on the basis of lateral road mileage, determined by the ratio of the mileage of the lateral roads in the county to the total mileage of the lateral roads in the State as of January 1, 1939, as shown by the records of the State-Federal Highway Planning Survey and the State Highway Department.

If the records of the Highway Department and the State-Federal Highway Planning Survey are such that, in the opinion of the Highway Commission or of any county, there is a reasonable doubt as to their accuracy, the Highway Commission may authorize an independent survey to be made of that county's lateral road mileage upon its own motion or on the application of said county. The expense of such survey shall be borne by the county.

The moneys allocated to each county from the Lateral Road Account shall be used by said county first for paying the principal, interest, and sinking fund requirements maturing during the fiscal year for which such money was allocated to such county on bonds, warrants, and other legal obligations issued prior to January 2, 1939, the proceeds of which were actually expended in acquiring right of ways for State designated highways, it being the intention of the Legislature to designate and set apart sufficient money to pay off and discharge said outstanding obligations incurred for right of way acquisition. The Board shall require from each county a sworn statement of the

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outstanding right of way indebtedness incurred on State designated highways, and in the event a false statement is furnished the Board by any county, or where any county fails or refuses to file a report, then such county shall be denied any benefits under this Section; it being the duty of the Board before distributing any funds to any county under this Section where such county submits a report that it has no right of way indebtedness, or where said report is vague or indefinite, to audit and determine the correctness of such report. Funds remaining in the Lateral Road Fund of any county, after the payment of said right of way obligations, shall be used by the county for paying the maturing principal, interest, and sinking fund requirements, due by the county in that fiscal year on bonds, warrants, or other evidences of indebtedness which were legally issued by such county or road districts prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads. Payment to be made ratably upon the principal and interest on the maturing road bond obligations of said county for such fiscal years. Any funds remaining in the Lateral Road Fund of any county after the payment of said principal, interest, and sinking fund requirements due or maturing in that fiscal year on bonds or warrants which were legally issued by such county or road district prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads, may be used by the county under direction of the Commissioners Court for any one or all of the following purposes: (a) for the acquisition of right of ways for county lateral roads and for the payment of legal obligations incurred therefor prior to January 2, 1939; (b) for the construction or improvement of county lateral roads; (c) for the purpose of supplementing funds appropriated by the United States Government for Works Progress Administration highway construction, Public Works Administration highway construction, and such other grants of Federal funds as may be made available to the counties of this State for county lateral road construction; and (d) for the purposes of cooperating with the State Highway Department and the Federal Government in the construction of farm-to-market roads. Provided that when such funds are used for the construction or improvement of county lateral roads, such construction or improvement shall be made under the supervision of a competent engineer.

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After such allocation has been made to the several counties in the State the Board shall in writing notify the Chairman of the Commissioners Court of each county of the amount which has been credited to that county. After receiving said notice, the Commissioners Court shall, within sixty (60) days, notify the Board of the manner in which it has exercised its option as to the one or more specified uses of said money permitted under this Act.

Such money shall be applied pro rata to the payments of the debt service requirements of all issues of lateral road indebtedness of the county and all included defined road districts, in the proportion that the debt service requirements of each issue bears to the aggregate debt service requirements of all issues for that year. When any issue of obligations which will receive aid under this Section is already listed with the Board of County and District Road Indebtedness, the Board shall credit the amount applicable to said issue to the account of said issue in the State Treasury. As to all other issues of obligations, which will receive aid under this Subsection (h), the Commissioners Court of the specific counties affected shall have the right, if so desired, to utilize the facilities of the State Board of County and District Road Indebtedness in paying the amounts of principal and interest on said issues substantially in the manner that payments are affected as to such eligible obligations.

In the event that the funds so received by the county from the Lateral Road Account are in excess of the amount required to meet the principal and interest of its maturing road bond obligations for the next fiscal year, the Commissioners Court, in that event, may elect to use such excess money allocated to it from the Lateral Road Account, and in such event, it shall notify, in writing, the said Board of its election to make use of said money. Whereupon, said Board shall remit said balance to be utilized for such purpose to the County Treasurer of such county, said money to be deposited by the County Treasurer in accordance with law, and the same shall be utilized by the county, acting through the Commissioners Court, for the construction of lateral roads. Each county may call upon the State Highway Commission to furnish adequate technical and engineering supervision in making surveys, preparing plans and specifications, preparing project proposals and supervising actual construction. The actual cost of such

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aid in supervision shall be paid by the county as a charge against its project.

In order that maximum benefits may be obtained in the expenditures of the State fund made available to the counties under this Act for the construction of county lateral roads, and so that the counties may have the benefit of widespread competition among contractors in bidding on such projects, such counties may, in their discretion, authorize the State Highway Commission, to receive bids in Austin on all such construction in the same manner as is now provided by law for the award of contracts on State highways.

When any road which shall have been constructed by any county wholly from the County Lateral Road Account shall be designated by the State Highway Commission as a part of the System of Designated State Highways, the designation of such road by the State Highway Commission shall constitute a full and complete discharge of any and all obligations of the State, moral, legal, or implied, for the payment of such highway.

In the event the Commissioners Court elects to co-operate with the Highway Department in the building of, or in the construction of, farm-to-market roads, it shall by proper resolution entered upon its minutes, authorize the State Treasurer to pay such funds to be so used, over to the State Highway Department for use on certain designated projects. Regardless of how the funds allocated to the counties from the Lateral Road Account are used, the County Judge of each county shall file with the Board on or before October first of each year, a verified report showing the manner in which the said funds have been expended, the nature and location of the roads constructed, and such other information as the Board may from time to time require. (As amended Acts 1947, 50th Leg., p. 539, ch. 319, § 1.)

(i) The County Commissioners Court of any county may exercise the authority now conferred by law to issue refunding obligations for the purpose of refunding any eligible debt of the county or of any defined road district; and such refunding obligations, when validly issued, shall be eligible obligations within the meaning of this Act, if said Board of County and District Road Indebtedness shall approve the maturities of said refunding obligations and the rate of interest borne by them.

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In any instance where in the opinion of said Board the existing maturities of any issue of eligible obligations or any part thereof are such as to give the county or defined road district which issued them an inequitable or disproportionate participation in the moneys coming into the County and Road District Highway Fund in any particular period, said Board, in its discretion, may require said issue or any part thereof to be refunded into refunding obligations bearing such rate of interest and having such maturities as may be satisfactory to the Board, but in no event at a greater rate of interest than that provided in the original issue. And if said county or defined road district shall fail or refuse to effectuate such refunding within a reasonable time to be fixed by said Board, said obligations so required to be refunded, and all other obligations of said county or defined road district shall cease to be eligible for participation in said County and Road District Highway Fund until the requirements of said Board, with respect to refunding, shall be complied with.

The Board of County and District Road Indebtedness is hereby made the refunding agent of each county, and as such agent is directed to cooperate with the Commissioners Court of each county in effecting the necessary refunding of each issue of bonds; the Board shall prepare the necessary refunding orders for the Commissioners Court, prepare the proceedings and act in an advisory and supervisory capacity to the end that the expense of refunding any issue of bonds may be reduced to the minimum. Provided that no commission, bonus, or premium shall be paid by any county or defined road district for the refunding of such obligations, and no County Treasurer shall receive any commission for handling of the funds derived from the refunding of such obligations. All actual expense incurred in the refunding of its eligible indebtedness, including cost of proceedings, printing, legal approval and interest adjustment, shall be chargeable against the money theretofore or thereafter collected from ad valorem taxes, or at the option of the Commissioners Court conducting such refunding, may be paid from any other money under its control and available for the purpose, provided no obligations for such expense items shall be incurred or paid without affirmative approval by said Board.

(j) All moneys to be deposited to the credit of the County and Road District Highway Fund, from September 1, 1945, to

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August 31, 1947, both inclusive, are hereby appropriated to said respective counties and defined road districts and shall be received, held, used and applied by the State Treasurer, as ex-officio Treasurer of said respective counties and defined road districts, for the purposes and uses more specifically set forth in this Act, including the payment of principal, interest and sinking fund requirements on all eligible obligations maturing up to and including August 31, 1947. And each year thereafter until all of such eligible obligations are fully paid, all moneys coming into the credit of the County and Road District Highway Fund with the State Treasurer, and all moneys remaining therein from any previous year shall be received and held by him as ex-officio Treasurer of such counties and defined road districts, and shall first be subject to the appropriation for the payment of interest, principal and sinking funds maturing from time to time on said eligible obligations, and then for the other uses specified and permitted in this Act.

In the event any county, road district, or defined road district has since September 1, 1941, made any payment on eligible bonds, warrants, or other evidence of eligible indebtedness as defined under the terms of this Act, then such county, road district, or defined road district shall be reimbursed by the Board of County and District Road Indebtedness in the amount of the payment so made on such eligible obligations. (As amended Acts 1945, 49th Leg., p. 389, ch. 251, § 1.)

(k) As payment of principal and/or interest becomes due upon such eligible obligations, the State Comptroller of Public Accounts shall issue his warrant to the State Treasurer for the payment thereof, and the State Treasurer shall pay the same at his office in Austin, Texas, or by remitting to the bank or trust company or other place of payment designated in the particular obligation. Such warrants or voucher claims shall show on their face that the proceeds of the same are to be applied by the paying agent to the payment of certain specified obligations or interest therein described, by giving the name of the county or defined road district by which they were issued, numbers, amounts, and dates of maturities of the obligations and interest to be paid, with instructions to the State Treasurer, paying agent, bank, or trust company to return to the State Comptroller of Public Accounts such obligations and interest coupons when same are paid; and the State Comptroller of Public Accounts shall, upon receipt of said obligations and

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coupons, credit same on his records and send them, duly cancelled, to the Commissioners Court of the appropriate county, which shall cause to be duly entered a record of such cancellation. In instances wherein counties or defined road districts therein shall have arranged with the Board to pay principal or interest thereon, of outstanding lateral road indebtedness, the Board, and the State Comptroller of Public Accounts, and the State Treasurer shall follow, insofar as practicable, the procedure prescribed in this sub-section (k) for the payment of the principal and interest of eligible obligations.

(l) Expenses necessary to be incurred in the determination of the indebtedness of the counties and defined road districts of the state, and in the discharge of the duties required for the payment of such obligations, shall be paid from the County and Road District Highway Fund by warrant approved by the Chief Accountant, and one other member of said Board, and the State Comptroller of Public Accounts. The compensation of all employees of said Board shall be fixed by the Legislature. All employees of said Board of County and District Road Indebtedness shall be bonded, the amount of such bond being set by the Board.

(m) All of the securities now on hand in which sinking funds collected for the benefit of outstanding eligible issues are invested, and all funds and securities hereafter acquired for the benefit of the entire outstanding balance of all eligible bond issues, shall be forwarded within thirty (30) days from the effective date of this Act, and thereafter within thirty (30) days of the acquisition of such fund or securities, to the State Treasurer as ex officio County Treasurer of the various counties and defined road districts. Provided that the cash now on hand in the sinking fund created for the benefit of outstanding eligible obligations may also be remitted as above set forth, at the option of such county or defined road district. Any county, the Commissioners Court of which fails or refuses to comply with the provisions of this Act in all things, including the levy, assessment, and collection of a tax, and at a rate sufficient to pay all sums due or to become due, which the state is unable to pay, or to provide each year the proportionate amount of sinking fund required to redeem its outstanding bonds at their maturity, shall not participate in any of the benefits of this Act so long as such county fails or refuses to comply with provisions thereof. The Board of County and

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District Road Indebtedness shall have and possess full authority to invest all such sinking funds, including all future sinking funds acquired in any manner whatsoever, in any eligible obligations of the various political sub-divisions of this state which mature within the current biennium in which such securities are purchased; and where there is on hand a sufficient amount of moneys or securities to the credit of any one political subdivision to retire some of its outstanding obligations, whether then due or not, the Board of County and District Road Indebtedness may, if it deems it advisable, purchase and cancel said obligations of such particular political subdivision, irrespective of maturity dates. Provided further, that any county which has selected a depository according to law and in which county such depository has qualified by giving surety bonds or by the deposit of adequate securities of the kind provided by law, which in the opinion of the Board of County and District Road Indebtedness is ample to cover the county deposits, and which county has not defaulted in the payment of any installment of principal and/or interest on any county bonds for a period of five (5) years next preceding the date of the filing of its application for exemption, and in which county all sinking funds of all bond issues are in excess of the standard required by law, and which county has levied for the current tax year adequate rates in support of outstanding bond issues and warrant as required by the Constitution and Statutes of said state, shall be exempt from the provisions of this subsection (m) of this Act, and which exemption shall be obtained by such county in the manner and under conditions prescribed by the said Board of County and District Road Indebtedness. Said Board shall have the right to inspect the records of such county at any subsequent date to ascertain whether or not the facts warrant the continuation of the exemption. If at any time, in the opinion of the Board, counties that have been granted exemption under the provisions of this Act shall cease to comply with all the conditions under which the exemption has been granted, the Board shall notify the county to return all securities in which the sinking funds of eligible road bond issues are invested, and the residue in said sinking funds, and to begin immediately forwarding taxes levied and collected for the payment of interest and principal on all eligible road bond issues. Said counties whose exemption has been cancelled by said Board shall be given a period of thirty (30) days in which to comply with the demands of the Board. Provided further, that such counties so exempt shall furnish the Board

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an annual statement of the condition of the sinking funds of the several eligible road bond issues, together with a financial statement of the county depository. The Board shall have the right to withhold the payment of any maturity on any eligible road bond indebtedness where such county has failed or refused to comply with all the provisions of this Act.

(n) The Board shall keep adequate minutes of its proceedings and semiannually, on or before June 30th and December 31st of each year, shall make itemized reports to each county with respect to the receipt, disbursement, and investment of the funds credited to such county. The Commissioners Court of any county, and/or its accredited representatives shall have the right to inspect the records of said Board and of the State Treasurer, at any reasonable time, for the purpose of making any investigation or audit of the accounts affecting its county. (As amended Acts 1945, 49th Leg., p. 389, ch. 251, § 2.)

(o) The Board shall, within ninety (90) days after the close of each fiscal year, make a complete accounting for the preceding year to the Governor of this state, showing in such report its act, investments, changes in investments and sinking fund status of each county and each defined road district, and shall file copies of such report with the President of the Senate and with the Speaker of the House of Representatives.

(p) In the event this Act is repealed, or shall be or become inoperative as to any county or defined road district, then it shall be the duty of the Board to ascertain immediately the amount of moneys and securities remaining on hand with it or with the State Treasurer belonging to the several counties or defined road districts affected, and forthwith to return the same to the County Treasurer of the County entitled thereto, accompanied by an itemized statement of the account of the county or defined road district.

(q) All funds on hand belonging to, and hereafter credited to, the several counties and defined road districts of the state, shall be considered State Funds, and as such shall be deposited at intervals in the depositories provided for by the state laws and all interest earned on such funds and on the securities in which the sinking funds are invested shall belong to said counties or defined road districts, and shall be credited to them by the State Treasurer as earned and collected.

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(r) Upon notice from the Board of the amount that such county or defined road district shall be required to pay toward any installment of interest, or maturing principal, the County Treasurer of such county shall, not later than twenty (20) days prior to the maturity date of such interest, principal, or sinking fund requirements, forward to the State Treasurer the amount fixed by the Board as being necessary to supplement the amounts previously placed to the credit of any such county or defined road district by said Board under the provisions of this Act. (Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 6, (formerly § 7, as amended Acts 1933, 43rd Leg., p. 347, ch. 136, § 1; Acts 1935, 44th Leg., p. 751, ch. 326, § 1; Acts 1937, 45th Leg., p. 761, ch. 370, § 1; Acts 1937, 45th Leg., p. 1344, ch. 500, § 1), renumbered and amended Acts 1939, 46th Leg., p. 582, § 1, Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

ART. 6674q-8. RESTRICTIONS AS TO EXTENDING STATE CREDIT

No provision of this Act shall be construed to authorize the giving or lending of the credit of the state to any county or district or to pledge the credit of the state in any manner whatever for the payment of any of the outstanding road indebtedness, herein referred to, of the counties or districts of the state. It is hereby declared that all eligible indebtedness, as herein defined, shall remain indebtedness of the respective counties or defined road districts which issued it, and said counties or defined road districts shall remain liable on said indebtedness according to its terms and tenor; and it is not the purpose or intention of this Act, or any part hereof, to obligate the State of Texas, directly or indirectly or contingently, for the payment of any such obligations, or that the State of Texas should assume the payment of said obligations; and this Act is not to be construed as obligating the State of Texas to the holders of any of said obligations to make any payment of the same, or any part thereof, nor shall such holders have any rights to enforce the appropriation of any of the moneys hereinabove provided for, nor shall any provision hereof constitute a contract on the part of the state to make money available to any county for the construction of additional lateral roads. The provisions hereof are intended solely to compensate, repay, and reimburse said counties and districts for the aid and assistance they have given to the state in furnishing, advancing

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and contributing money for building and constructing State Highways. (Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 8; Acts 1933, 43rd Leg., p. 347, ch. 136, § 1; Acts 1939, 46th Leg., p. 582, § 1; Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

ART. 6674q-8a. BONDS OF NAVIGATION DISTRICTS; PREFERENCE OVER OTHER BONDS BY BOARD OF COUNTY AND ROAD DISTRICT BOND INDEBTEDNESS UNAUTHORIZED

All bonds heretofore issued by navigation districts of this state, which mature on or after January 1, 1933, and insofar as amounts of same were issued for and the proceeds thereof actually expended in the construction of bridges across any stream or streams or any other waterways upon any highway that constituted and comprised a part of the system of Designated State Highways on September 17, 1932, shall hereafter be included within and eligible under the provisions of Chapter 13 of the Acts of the 42nd Legislature of Texas, passed at its Third Called Session, as amended by the Acts of the 43rd Legislature of Texas, Regular Session, to the extent that the proceeds of the sale of said bonds shall have been actually expended in the construction of such bridges and in such cases the outstanding bonds of said navigation districts in an amount equal to the amount so expended by such navigation districts shall be redeemed under the same conditions as are provided by said Chapter 13, Acts of the 42nd Legislature of Texas, Third Called Session, as amended by the Acts of the 43rd Legislature of Texas, Regular Session, for the redemption of county and road district bonds.

It is expressly provided that the Board of County and District Road Indebtedness shall not be authorized to give the bonds herein referred to preference over other similar bonds eligible under said Bond Act; and it is further expressly provided that said Board in determining the amount of bonds eligible for assumption shall take into consideration the amount of the bond money expended for the construction of said bridge, and the balance due on said amount of bonds used in the construction of said bridge, at the effective date of this Act; and in no event shall said Board be authorized to assume in excess of the balance due on the bonds for the said bridge construction at the effective date of this Act. (Acts 1932, 42nd Leg., 3rd

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C.S., p. 15, ch. 13, § 7 (formerly § 8a added Acts 1937, 45th Leg., p. 277, ch. 146, § 1), renumbered and amended Acts 1939, 46th Leg., p. 582, § 1; Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

ART. 6674q-8c. LATERAL ROAD ACCOUNT; PUNISHMENT FOR UNAUTHORIZED USE

It shall be unlawful for any County Judge or any County Commissioner, while acting in his official capacity or otherwise, to use any money out of the Lateral Road Account for any purpose except the purposes enumerated in this Act. If any County Judge or any County Commissioner shall knowingly expend or use, or vote for the use of, or agree to expend or use any sum of money accruing to any county in this state from the Lateral Road Account, for any purpose not authorized by this Act, or shall knowingly make any false statement concerning the expenditure of any such money, he shall be deemed guilty of a felony, and upon conviction shall be punished by confinement in the State Penitentiary for not less than two (2) years nor more than five (5) years. (Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 9, added Acts 1939, 46th Leg., p. 582, § 1; as amended Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

ART. 6674q-9. LEGISLATIVE POLICY; STATE TITLE TO ROADS

If succeeding Legislatures shall continue to carry out the policy herein defined by authorizing a similar appropriation of funds from time to time, (a) then whenever the eligible obligation shall have been fully paid as herein provided, as to or for any county or defined road district according to the provisions of this Act, then, and in the event, the title and possession of all roads, road beds, bridges, and culverts in such county or defined road district, which are included in the system of Designated State Highways, shall automatically vest in fee simple in the State of Texas; in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; and (b) whenever the interest and principal necessary to retire the outstanding indebtedness owed for lateral roads shall have been fully paid as herein provided, as to, or for any county or defined road district, according to the provisions of this Act, then, and in that event, the title of

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all roads, road beds, bridges, and culverts in such county or defined road district, pertaining to the lateral roads constructed with the proceeds of such indebtedness, shall automatically vest in the State of Texas; but the possession thereof shall remain in such county or defined road district, and in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; provided that when the right-of-way, or any part thereof, pertaining either to a State Highway or a lateral road, has been abandoned because of the abandonment of such road for all public purposes, and such right-of-way, or any part thereof, was donated by the owner of the land for right-of-way purposes, then, and in that event, the title to the said right-of-way shall vest in said owner, his heirs or assigns; provided, however, that nothing in this Act shall prevent the State Highway Commission from changing or abandoning any State Highway, and if the Commission shall change or abandon any State Highway in any county, the Commissioners Court of such county shall have the right to assume jurisdiction over such portion of such highway so abandoned by the State Highway Commission. Likewise, the title to additional lateral roads, when constructed, shall vest in the State of Texas. Provided, however, that this Act neither imposes the obligation on, nor confers the right in, the State of Texas, to maintain and lay out any roads except those constituting a part of the designated State Highway System as hereinabove in this Act defined. The obligation to maintain or lay out all other roads, including lateral roads and additional lateral roads as defined in this Act, shall remain undisturbed in the several Commissioners Courts as agents of the state. (Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 10, (formerly § 9) renumbered and amended Acts 1939, 46th Leg., p. 582, § 1; Acts 1941, 47th Leg., 1st C.S., p. 2, ch. 2, § 1; Acts 1943, 48th Leg., p. 494, ch. 324, § 1.)

ART. 6674q-12. STATE TREASURER AS EX OFFICIO COUNTY TREASURER IN PAYMENT OF INTEREST AND SINKING FUNDS

Resolved by the Senate of Texas, the House of Representatives concurring, that it was the intention of the Legislature of the State of Texas in enacting said above named Acts to authorize and empower the Treasurer of the State of Texas to act as ex officio treasurer of such respective county and road districts in the payment of the interest and sinking funds due

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by the several counties of the State upon such county road bonds which are not eligible to participate in the County and Road District Highway Fund, and to receive from the respective counties the sums of money due by such respective counties for the payment of such interest and sinking funds, and to pay same upon warrants issued by the Comptroller of the State of Texas in the same manner as is provided for the payment of the interest and sinking funds upon the county road bonds which are eligible to participate in the County and Road District Highway Fund in the Acts aforesaid. Nothing herein shall be construed as increasing the liability of the State of Texas for the payment of any interest or sinking funds on any county road bonds not heretofore eligible under the provisions of the Acts aforesaid; the State Treasurer, merely for convenience of such counties, to act as ex officio treasurer in the receiving and payment of the interest and sinking funds on said county road bonds which are not eligible to participate in the County and Road District Highway Fund. (Acts 1936, 44th Leg., 3rd C.S., p. 2115, S.C.R. # 4.)

ART. 6674q-14. ROAD DISTRICT BONDS IN COUNTIES OF 19,000 TO 19,500; PARTICIPATION IN STATE HIGHWAY FUND

All bonds which have been heretofore issued and sold by road districts in counties with a population of not less than nineteen thousand (19,000) and not more than nineteen thousand five hundred (19,500), according to the next preceding Federal Census, where the proceeds of the sale of the bonds have been expended in whole or in part upon a highway which was then a part of the designated system of State Highways in Texas, and a part of the proceeds of which has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been designated as a part of the State Highway System of Texas, and where such designated parts of the State Highway System bear different highway numbers, or where one designation is numbered and the other un-numbered, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and any amendments thereto, including the re-enactment and extension thereof under and by virtue of the terms and provisions of House Bill No. 463, enacted by the Legislature of Texas, Forty-fifth Regular Session, 1937.

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The Board of County and Road District Indebtedness is directed to audit all expenditures of the aforementioned district, and the assumption herein provided for shall extend only to such bonds, the proceeds of which were expended in the construction of the road which has subsequently been designated a State Highway. (Acts 1937, 45th Leg., p. 901, ch. 437, § 1.)

ART. 6674r. BONDS OF ROAD DISTRICTS IN CERTAIN COUNTIES ENTITLED TO PARTICIPATE IN STATE HIGHWAY FUND UNDER CERTAIN CONDITIONS

All bonds which have been heretofore issued and sold by all road districts in counties with a population of not less than twenty-five thousand three hundred forty-four (25,344) and not more than twenty-five thousand four hundred forty-four (25,444) people, according to the last preceding Federal Census, where the proceeds of the sale of the bonds has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been temporarily or permanently designated as a part of the State Highway System, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and any amendments thereto. (Acts 1937, 45th Leg., p. 829, ch. 406, § 1.)

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ART. 6674v. TURNPIKE PROJECTS

Construction, maintenance and operation authorized

Section 1. To facilitate vehicular traffic throughout the State, to promote the agricultural and industrial development of the State, to assist in effecting traffic safety, to provide for the construction of modern expressways, to provide better connections between highways of the State of Texas and the highway system of adjoining states, including cooperation between states, the Texas Turnpike Authority, hereinafter created, is hereby authorized and empowered to construct, maintain, repair and operate Turnpike Projects (as hereinafter defined), and to issue turnpike bonds of the Texas Turnpike Authority, payable solely from the revenues of such projects.

Sec. 2. Turnpike revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but such bonds shall be payable solely from the funds herein provided therefor from revenues. All such turnpike revenue bonds shall contain on the face thereof a statement to the effect that neither the State, the Turnpike Authority or any political subdivision of the State shall be obligated to pay the same or the interest thereon except from revenues of the particular project for which they are issued and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The Turnpike Authority shall not be authorized to incur financial obligations which cannot be serviced from tolls or revenues realized from operating its projects as defined in this Act or from moneys provided by this Act.

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Sec. 3. There is hereby created an authority to be known as the "Texas Turnpike Authority," hereinafter sometimes referred to as the "Authority." By and in its name the Authority may sue and be sued, and plead and be impleaded. The Authority is hereby constituted an agency of the State of Texas, and the exercise by the Authority of the powers conferred by this Act in the construction, operation, and maintenance of turnpike projects shall be deemed and held to be an essential governmental function of the State.

The Board of Directors of the Authority (hereinafter in this Act sometimes called the "Board") shall be composed of directors, who shall occupy, respectively, places on the Board to be designated as Places 1, 2, 3, 4, 5, 6, 7, 8, and 9. Directors occupying Places 1, 2, and 3 shall serve terms expiring on February 15, 1955. The Directors occupying Places 4, 5, and 6 shall serve terms expiring on February 15, 1957. The Directors occupying Places 7, 8, and 9 shall serve terms expiring on February 15, 1959. The Directors who will occupy Places 2, 3, 5, 6, 8 and 9 shall be appointed by the Governor, by and with the advice and consent of the Senate, and the successors in office of each such Director shall be appointed for a term of six (6) years by the Governor, by and with the consent of the Senate. Each Director appointed to fill Places 2, 3, 5, 6, 8, and 9 shall have been a resident of the State and of the County from which he shall have been appointed for a period of at least one (1) year prior to his appointment.

The members of the Texas State Highway Commission at the time this Act becomes effective are hereby made Directors of said Authority, and if for any reason said Texas State Highway Commission at such time because of vacancies is composed of less than three (3) members, then the person or persons appointed to fill such vacancies are hereby made Directors of said Authority. The Highway Commissioners serving terms expiring February 15, 1955, February 15, 1957, and February 15, 1959, and their successors in office, shall respectively and successively occupy Places 1, 4 and 7 on such Board. Each member of the Texas State Highway Commission shall serve ex-officio as a member of the Board of Directors of such Authority. All Directors shall serve until their successors have been duly appointed and qualified, and vacancies in unexpired terms shall be promptly filled by the Governor.

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All members of the Board of Directors shall be eligible for reappointment. All Directors shall have equal status and all Directors shall have a vote. Each member of the Board before entering upon his duties shall take an oath as provided by Section 1 of Article XVI of the Constitution of the State of Texas.

The Board shall elect one of the Directors as chairman and another as vice chairman, and shall elect a secretary and treasurer who need not be a member of the Board. Six members of the Board shall constitute a quorum and the vote of a majority of the members present at any meeting shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

Before the issuance of any turnpike revenue bonds under the provisions of this Act, each Director shall execute a surety bond in the penal sum of Twenty-five Thousand Dollars (\$25,000) and the secretary and treasurer shall execute a surety bond in the penal sum of Fifty Thousand Dollars (\$50,000), each surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the State of Texas as surety and to be approved by the Governor and filed in the office of the Secretary of State. The expense of such bonds shall be paid by the Authority.

Each appointed Director may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty, but only after reasonable notice and public hearing unless the notice and public hearing are in writing expressly waived.

The members of the Authority shall not be entitled to any additional compensation for their services, but each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. All expenses incurred in carrying out the provisions of this Act shall be payable solely from funds provided under the authority of this Act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the authority of this Act.

The Legislature imposes on any Director, who may be a member of the State Highway Commission the extra duties required hereunder.

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Definitions

Sec. 4. As used in this Act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Texas Turnpike Authority, created by Section 3 of this Act, or, if such Authority shall be abolished, the board, body, authority or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law.

(b) The terms "State Highway Commission" and "State Highway Department" shall mean the agency of the State having general jurisdiction over State highway construction, maintenance, and operation, and if the Commission presently performing such functions should be abolished, the board, commission or body succeeding to its principal functions.

(c) The word "Project" or the words "Turnpike Project" shall mean any express highway or turnpike which the Authority may at any time determine to construct under the provisions of this Act, including its facilities to relieve traffic congestion and to promote safety, and shall embrace all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations, and administration, storage and other buildings which the Authority may deem necessary for the operation of the Project, together with all property rights, easements and interests which may be acquired by the Authority for the construction or the operation of the Project; provided, that the location of a Project must before final designation, be approved by the State Highway Commission. Provided, however, any "Project" or "Turnpike Project" which the Authority may construct under the authority of this Act shall at all times be deemed a public highway within the meaning of Chapter 270, page 399, Acts, Fortieth Legislature, 1927, as amended, by Chapter 78, page 196, Forty-first Legislature, First Called Session, 1929, and Chapter 314, page 698, Acts, Forty-first Legislature, 1929, as amended by Chapter 277, page 480, Acts, Forty-second Legislature, 1931, as amended by Chapter 290, page 463,

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Acts, Forty-seventh Legislature, 1941,¹ and to that end no motor bus company, common carrier motor carrier, specialized motor carrier, contract carrier or other motor vehicle operation for compensation and hire shall be conducted thereon except in accordance with the terms and provisions of Chapter 270, page 399, Acts, Fortieth Legislature, 1927, as amended by Chapter 78, page 196, Acts, Forty-first Legislature, First Called Session, 1929, and Chapter 314, page 698, Acts, Forty-first Legislature, 1929, as amended by Chapter 277, page 480, Acts, Forty-second Legislature, 1931, as amended by Chapter 290, page 463, Acts, Forty-seventh Legislature, 1941.

(d) The word "Cost" as applied to a turnpike project shall embrace the cost of construction, the cost of the acquisition of all land, right-of-ways, property rights, easements and interests acquired by the Authority for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one (1) year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of constructing any such Project, administrative expense and such other expense as may be necessary or incident to the construction of the Project, the financing of such construction and the placing of the Project in operation. Any obligation or expense hereafter incurred by the State Highway Commission for and on behalf of the Authority for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a Project shall be regarded as a part of the cost of such Project and shall be reimbursed to the State Highway Department out of the proceeds of turnpike revenue bonds hereinafter authorized.

(e) The word "owner" shall include all individuals, co-partnerships, associations or corporations having any title or interest in any property, rights, easements and interests authorized to be acquired by this Act. The term shall comprehend the State, counties, cities, political subdivisions, districts and all public agencies.

¹Articles 911a, 911b; Vernons's Ann. P. C. arts. 1690a, 1690b.

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(f) The word "highway" shall comprehend any road, highway, farm-to-market road, or street, whether under the supervision of the State, any county, any political subdivision or any city or town.

General Grant of Powers and Duties Imposed

Sec. 5. The Authority is hereby authorized, empowered, and it shall be its duty:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To sue and be sued in its own name, plead and be impleaded; provided, however, that any and all actions at law or in equity against the Authority shall be brought in the county where the cause of action arises, and if land is involved, including condemnation proceedings, suit shall be brought in the county where the land is situated;

(d) To construct, maintain, repair and operate Turnpike Projects as hereinabove defined at such locations within the State as may be determined by the Authority subject to approval as to location by the State Highway Commission; provided that the Authority shall have no power to fix, charge, or collect tolls for transit over any existing free public Highway;

(e) To issue turnpike revenue bonds of the Authority payable solely from revenues, including tolls pledged to such bonds, for the purpose of paying all or any part of the cost of a Turnpike Project. Turnpike bonds shall be issued for each separate project;

(f) To fix, revise, and adjust from time to time tolls for transit over each separate Turnpike Project;

(g) To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this Act;

(h) To acquire in the name of the Authority by purchase or otherwise, on such terms and conditions and in such manner as

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it may deem proper, or by the exercise of the right of condemnation in the manner hereinafter provided, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, right-of-ways, property rights, easements and interests, as it may deem necessary for carrying out the provisions of this Act; provided, however, that except for parks and playgrounds and except for any property which may have been theretofore acquired under restrictions and limitations requiring payment of compensation, no compensation shall be paid for public lands, parkways or reservations so taken; and that all public property damaged in carrying out the powers granted by this Act, shall be restored or repaired and placed in its original condition as nearly as practicable; provided further, that the governing body having charge of any such public property is hereby authorized to give its consent to the use of any such property for a Turnpike Project; provided, further, that all property or interest so acquired shall be described in such a manner so as to locate the boundary line of same with reference to lot and block lines and corners of all existing and recorded subdivision properties and to locate the boundary line of other property with reference to survey lines and corners.

(i) To designate the location, and establish, limit and control such points of ingress to and egress from, each Turnpike Project as may be necessary or desirable in the judgment of the Authority and the Texas Highway Department to insure the proper operation and maintenance of such Project, and to prohibit entrance to such Project from any point or points not so designated.

In all cases where county or other public roads are affected or severed, the Authority is hereby empowered and required to move and replace the same, with equal or better facilities; and all expenses and resulting damages, if any, shall be paid by the Authority.

(j) To make and enter into contracts and operating agreements with similar authorities or agencies of other states; to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act; and to employ consulting engineers, attorneys, accountants, construction and financial

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experts, superintendents, managers and such other employees and agents as may be necessary in its judgments, and to fix their compensation; provided, that all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of this Act or from revenues; and provided further that no compensation for employees of Authority shall exceed the salary schedule of the State Highway Department for comparable positions and services.

(k) To receive and accept grants for or in aid of the construction of any turnpike Project, and to receive and accept aid or contributions from any source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(l) To make and enforce rules and regulations not inconsistent with the provision of this Act for use of any such Project;

(m) All contracts of the Authority for the construction, improvement, repair, or maintenance of any turnpike project shall, in so far as applicable, be made and awarded under the same conditions, terms, requirements, and provisions as are now provided for with respect to contracts of the State Highway Department in Sections 8 and 9 of Chapter 186, pages 457, 458, Acts, Thirty-ninth Legislature, 1925, as amended by Chapter 103, page 286, Acts, Forty-third Legislature, First Called Session, 1933, and Sections 10 and 13 of Chapter 186, page 458, Acts, Thirty-ninth Legislature, 1925, codified as Articles 6674h, 6674i, 6674j, and 6674m, Vernon's Civil Statutes, and in the making and awarding of such contracts the Authority shall, in so far as applicable, be under the same duties and responsibilities with respect thereto as are now imposed upon the State Highway Department by the terms and provisions of the Statutes herein enumerated. It is hereby declared to be the intention of the Legislature that the provision of this paragraph shall be mandatory.

(n) Provided, however, that the Authority in this Act created, save and except for the region included within the boundaries of Dallas and Tarrant Counties of this State, shall not be empowered or authorized to process or commence plans for or the construction of any toll road or turnpike over the

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same route or parts thereof or between the same terminal or intervening cities or towns, or through any counties or regions served by a toll road corporation as hereinafter described, which could in any manner whatsoever be construed as a duplication of the services rendered by a toll road running in the same general directions over the same general route or part thereof or through the same regions or counties of the State which has been planned, commenced or constructed by a toll road corporation chartered prior to April 1, 1953, under the laws of this State which provides in its articles of incorporation, bylaws, or otherwise, that none of the net income or profits, whether realized or unrealized, shall ever inure to the benefit of or be distributed to any private shareholder or any other private person, association or corporation whatsoever, and that, after payment of all indebtedness for the acquisition, construction, maintenance and operation of such toll road, the title of all the assets of said toll road corporation shall be conveyed to the State of Texas or to the county or counties in which such toll road is situated; provided further, however, that such toll road corporation commence the construction of such toll road within a period of eighteen (18) months from the effective date of this Act.

(o) To do all acts and things necessary or appropriate to carry out the powers expressly granted in this Act.

Incidental Powers

Sec. 6. The Authority shall have authority to construct grade separations at intersections of Turnpike Projects with railroads and with highways, and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of railroads or such highways shall be paid by the Authority as a part of the cost of such Turnpike Project.

If the Authority shall find it necessary to change the location of any portion of any highway, it shall cause the same to be reconstructed at such location as the Authority and the Texas Highway Department shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any

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damage incurred in changing the location of any such highway shall be ascertained and paid by the Authority as a part of the cost of such Turnpike Project. No Project shall be instituted for the purpose of being substituted for or taking the place of an existing highway. Each Project shall be essentially an additional facility.

In addition to the foregoing powers, the Authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or appropriate for the purpose of this Act, and such entry shall not be deemed a trespass, nor shall any entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The Authority shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities.

The Authority also shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracts, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "Public Utility Facilities") of any public utility, railroad or pipeline company, or of any person, in, on, along, over or under the Turnpike Project. Whenever the Authority shall determine that it is necessary that any Public Utility Facilities which now are, or hereafter may be, located in, on, along, over or under the Turnpike Project should be relocated in such Project, or should be removed from such Project, or should be carried along or across the Turnpike by grade separation, the owner or operator of such facilities shall relocate or remove the same in accordance with the order of the Authority; provided, however, that the cost and expenses of such relocation or removal or grade separation, including the cost of installing such facilities in a new location or new locations, and the cost of any land, or any rights, or interest in lands, and any other rights, acquired to accomplish such relocation or removal, and the cost of maintenance of grade separation structures, shall be paid by the Authority as a part of the cost of or cost of operating such Turnpike Project. In case of any such relocation or removal of facilities, the owners or operators of the

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same, their successors or assigns, may use and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as they had the right to maintain and operate such facilities in their former location or locations. Provided, however, notwithstanding anything contained herein to the contrary, the provisions of House Bill No. 393, Acts, Fifty-first Legislature, 1949, Chapter 228, Page 427,¹ shall apply to the erection, construction, maintenance, and operation of lines and poles owned by corporations organized under the Electric Cooperative Corporation Act of this State,² and all other corporations (including River Authorities created by the Legislature of this State) engaged in either the generation, transmission, or distribution of electric energy in Texas and whose operations are subject to the Judicial and Legislative processes of this State, over, under, across, upon and along any Project constructed by the Authority; provided, however, that the Authority shall have the same powers and duties as are delegated the State Highway Commission under the provisions of said House Bill No. 393, Acts, Fifty-first Legislature, 1949, Chapter 228, Page 427, and further provided that notwithstanding anything contained herein to the contrary, the existing laws of the State of Texas applicable to the use of public roads, streets and waters of the State by telephone and telegraph corporations shall apply also to the erection, construction, maintenance, location and operation of lines, poles and other fixtures by telegraph and telephone corporations over, under, across, upon and along any Project constructed by the Authority.

The State of Texas hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the Authority to be necessary for the construction or operation of any Turnpike Project. Provided, however, that nothing herein shall be construed as depriving the School Land Board of authority to execute leases in the manner authorized by law for the development of oil, gas and other minerals on State-owned lands adjoining any such Project, or in tide-water limits, and to this end such leases may provide for directional drilling from such adjoining land and tidewater area.

¹ART. 1436a.

²ART. 1528h.

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Purchase of Property

Sec. 7. The Authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any land, property rights, right-of-ways, franchises, easements and other interests in lands as it may deem necessary for the construction or operation of any Turnpike Project upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the Authority and the owner thereof, and to take title thereto in the name of the Authority.

The governing body of every county, city, town, political subdivision or public agency is authorized without any form of advertisement to make conveyance of title or rights and easements to any property needed by the Authority to effect its purposes in connection with the construction or operation of a Turnpike Project.

Condemnation of Property

Sec. 8. Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated, or is absent, unknown or unable to convey valid title, the Authority is hereby authorized, and empowered to acquire, by the exercise of the power of condemnation and in accordance with and subject to the provisions of any and all existing laws and statutes applicable to the exercise of the power of condemnation of property for public use, any land, property rights, right-of-ways, franchises, easements or other property deemed necessary or appropriate for the construction or the efficient operation of any Turnpike Project or necessary to the restoration of, public or private property damaged or destroyed; provided, however, the Authority may not condemn any land except such as will be necessary for road and right-of-way purposes. The road and right-of-way purposes for which the Authority may condemn land, shall include the land necessary for access, approach, and interchange roads, but shall not include any supplemental facility for other purposes. Such supplemental facilities must be constructed upon land acquired by purchase and not by condemnation. In any condemnation proceedings the Court having jurisdiction of the suit, action or proceeding, may make such orders as may be just to the Authority and to the owners of the property to be

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condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the State or the Authority except such as may be paid from the funds provided under the authority of this Act.

In all cases where property of an owner is severed by the Turnpike Project, the Authority shall pay the value of the property acquired and the severance damages, to the property remaining in the owner. Such severance damages shall include those arising from the inaccessibility of one tract to the other. The Authority shall provide and maintain at all times for the owner of such severed land, his employees and representatives, without charge, a passageway over or under the project, provided however that the Authority shall not be required to furnish such a passageway (1) if the owner waives such requirement, or (2) if the original tract or ownership involved is less than eighty acres. The Authority is hereby authorized and empowered to negotiate for, and purchase the land or either tract of the land severed, provided satisfactory terms may be agreed upon with the owner. All severed land acquired by the Authority, as herein provided, shall be sold and disposed of by the Authority within a period of two years after its acquisition.

In addition to any other power granted in this Act, the powers and procedure granted to and available to the State Highway Commission for acquisition of property, are likewise granted to and made available to the Authority, subject to the provisions of this Act.

Turnpike Revenue Bonds

Sec. 9. The Authority is hereby authorized to provide by resolution, from time to time, for the issuance of turnpike revenue bonds of the Authority for the purpose of paying all or any part of the cost of a Turnpike Project. Each Project shall be financed and built by a separate issue of bonds. The proceeds of no issue of bonds shall be divided between or among two or more projects. The cost of each Project shall be determined and set up as a separate project and undertaking. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment

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and from the revenues of the particular project for which such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, not exceeding five (5) per centum per annum, shall mature at such time or times, not exceeding forty (40) years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds.

The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The bonds shall be signed by the Chairman of the Authority, or shall bear his facsimile signature, and the official seal of the Authority or a facsimile thereof shall be impressed or printed thereon, and attested by the Secretary and Treasurer of the Authority. Any coupons attached thereto shall bear the facsimile signature of the Chairman of the Authority. In cases where any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery. All bonds issued under the provisions of this Act shall have and are hereby declared to have all the qualities and incidents of, and are hereby declared to be and are constituted negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. If the duty of such reconversion is imposed on the Trustee in a Trust Agreement as authorized under Section 11, the substituted coupon bonds need not be reapproved by the Attorney General of Texas, and they shall remain incontestable. The Authority may sell such bonds in such manner, either at public or at private sale, and for such price, as it

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may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than five (5) per centum per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond value, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the payment of the Cost of the Turnpike Project from which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such Cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference of priority of the bonds first issue. If the proceeds of the bonds of any issue shall exceed the Cost of the Turnpike Project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable or definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide without reapproval by the Attorney General, for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Before the Authority may deliver any bonds issued hereunder to the purchaser thereof, the proceedings authorizing their

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issuance and securing the bonds shall be presented to the Attorney General of Texas for examination and approval. If the bonds shall have been duly authorized in accordance with the Constitution and laws of the State and constitute valid and binding obligations of the Authority, according to their tenor and effect, and proper charges against the revenues pledged to their payment, he shall approve the bonds. Without such approval the bonds cannot be so issued and delivered to the purchaser. The bonds when approved shall be registered by the Comptroller of Public Accounts of the State of Texas. After such approval and registration the bonds shall be incontestable.

Turnpike Revenue Refunding Bonds

Sec. 10. The Authority is hereby authorized to provide by resolution for the issuance of turnpike revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding, issued on account of a Project, which shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements to the Turnpike Project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this Act in so far as the same may be applicable. Within the discretion of the Authority the refunding bonds may be issued in exchange for outstanding bonds or may be sold and the proceeds used for the purpose of redeeming outstanding bonds.

Trust Agreement

Sec. 11. In the discretion of the Authority any bonds issued under the provisions of this Act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Any such trust agreement may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage any Turnpike Project or any part thereof.

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No trust agreement shall evidence a pledge of the revenues of any Project to any other purpose than for the payment of the cost of maintaining, repairing and operating the Turnpike Project and the principal of and interest on such bonds as the same shall become due and payable and to create and maintain reserves for such purposes, as prescribed in Section 12 hereof. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the Turnpike Project in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such Turnpike Project. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust agreement may contain such provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the Turnpike Project.

Revenues

Sec. 12. The Authority is hereby authorized to fix, revise, charge and collect tolls for the use of each Turnpike Project and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon gas stations, garages, stores, hotels, restaurants, or for any other purpose except for tracks for railroad or railway use, and except

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for use by telephone, telegraph, electric light or power lines and to fix the terms, conditions, rents and rates of charges for such use. Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the Turnpike Project in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such Turnpike Project and (b) the principal of and the interest on such bonds as the same shall be come due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State. The tolls and all other revenues derived from the Turnpike Project in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of such bonds as the same shall fall due, (3) the necessary charges of paying agents for paying principal and interest, and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement.

The revenues and disbursements for and on behalf of each Project shall be kept separately. No revenues of one Project shall be used to pay cost of another Project. The moneys in the sinking fund, less such reserve as may be provided in such resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable.

Trust Funds

Sec. 13. All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as

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revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this Act. The resolution authorizing the issuance of bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purpose thereof, subject to such regulations as this Act and such resolution or trust agreement may provide.

Remedies

Sec. 14. Any holder of bonds issued under the provisions of this Act or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this Act or by such trust agreement, or resolution to be performed by the Authority or by any officer thereof, including the charging and collecting of tolls.

Exemption from Taxation

Sec. 15. The exercise of the powers granted by this Act will be in all respects for the benefit of the people of the State, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of Turnpike Projects by the Authority will constitute the performance of essential governmental functions, the Authority will not be required to pay any taxes or assessments upon any Turnpike Project or any property acquired or used by the Authority under the provisions of this Act or upon the income therefrom, and the bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State.

Eligibility of Bonds

Sec. 16. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks.

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saving banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, of any and all public funds of cities, towns, villages, counties, school districts and other political subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value or to the extent of their market value, whichever value is the smaller, when accompanied by all unmatured coupons appurtenant thereto.

Dallas-Fort Worth Turnpike Project

Sec. 17. The Authority is expressly authorized and required to take immediate steps to process the construction of a Project to be known as "Dallas-Fort Worth Turnpike," and to construct, maintain, repair and operate such Turnpike Project between the cities of Dallas and Fort Worth. The project shall extend from a convenient connecting point in the principal East-West highway artery through the City of Dallas in Dallas County, to a convenient connecting point in the principal East-West highway artery through the City of Fort Worth in Tarrant County, along a route to be approved by the Highway Commission of the State of Texas, to be situated for the greater part of its length between United States Highway No. 80 and State Highway No. 183, and shall embrace all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations and administration, storage and other buildings which the Authority may deem necessary for the operation of the Project, together with all property rights, easements and interests which may be acquired by the Authority for the construction or the operation of the Project.

Existing toll roads as part of free highway system

Sec. 18. The Authority hereby created is authorized, empowered and directed to receive and accept for the State of Texas as a part of the free highway system thereof any toll road constructed and operated by a toll road corporation as described in Section 5, subsection (n), hereof, subject to the following conditions and requirements:

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"1. That at the time of such acceptance such toll road shall be free and clear of any and all encumbrances.

"2. That no compensation whatsoever shall be required to be paid therefor by the State of Texas.

"3. That at the time of such acceptance by the Authority such toll road shall be in good condition and repair to the satisfaction of the State Highway Commission.

"4. That such toll road shall have been constructed and maintained in such a manner as to be equal or superior to the standards of the State Highway Commission.

"5. That in letting the contracts for the construction and maintenance of said road such toll road corporation shall have followed the methods and procedures as are used by the State Highway Commission of Texas in such matters.

"A toll road corporation as described in Section 5, subsection (n) hereof, shall be obligated to make an irrevocable gift of all of its assets to the State of Texas and shall irrevocably bind itself to use all of its net income or profits to retire the indebtedness created for the acquisition, construction, maintenance and operation of such road, and which corporation shall at the time of the acquisition of any real property execute such instruments as may be necessary to convey or transfer such real property to the State of Texas, which instruments shall be deposited in escrow with any banking corporation chartered under the laws of Texas or of the United States with an escrow agreement which shall authorize and empower said escrow agent to deliver such instruments of conveyance and transfer to the Authority herein created when the requirements and conditions set forth above have been met and complied with. The authority herein created is hereby authorized, empowered and directed on behalf of the State of Texas to execute such instruments as may be necessary to complete such escrow agreement.

"The equitable, beneficial and superior title to the property belonging to a corporation described in Section 5, subsection (n) hereof, which is subject to an escrow agreement provided herein shall be vested at all times in the State of Texas and shall constitute public property used for public purposes,

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subject only to any liens or encumbrances created against said property by such corporation to finance the acquisition, construction, maintenance or operation of such road, and the board of directors of such corporation is hereby authorized and empowered to pledge, mortgage or otherwise encumber any of its properties or revenues, whether realized or unrealized, for such purposes, and the authorities herein created shall be required to execute such instruments of consent and subordination as may be required to give and grant such corporation such rights to pledge, mortgage or otherwise encumber its property for the purposes above set forth and, provided further, that neither the State of Texas nor any of its political subdivisions nor the Authority herein created shall ever be liable in any way for any indebtedness created by such a corporation or for any claim, demand, or obligation of any kind which may arise or be asserted against such a corporation, and that all bonds or other evidences of indebtedness of such corporation shall contain a statement to that effect on the fact thereof. "

Cessation of Tolls

Sec. 19. When all bonds issued under the provisions of this Act in connection with any Turnpike Project, and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof or for the redemption thereof, shall have been set aside in trust for the benefit of the bondholders, such Project, if then in good condition and repair to the satisfaction of the State Highway Commission, shall become part of the State Highway Commission and shall thereafter be maintained by the State Highway Commission, free of tolls. But if at the time such bonds are so paid or the redemption thereof so provided for, the State Highway Commission determines that the Project is not in such state of repair as justifies its acceptance as a part of the State Highway System, the Authority shall continue to operate the Project as a toll facility, and shall continue the tolls then in effect or revise the tolls so as to provide money sufficient to assure payment of the expense of maintenance and operation, and the making of such repairs and replacements as are necessary to meet the minimum requirements of the State Highway Commission within the shortest practicable time. Any money remaining to the credit of such Project after retirement of all of the bonds issued on its account--shall, upon acceptance of the Project by the State Highway Commission,

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be delivered by the Authority to the State Highway Commission and shall be held by it as a special reserve fund to assure continued maintenance of the facilities comprising the Project, to be administered under rules and regulations to be prescribed by the State Highway Commission. When the bonds issued to finance a Turnpike Project are fully paid and the Turnpike Project has been accepted by the State Highway Commission as provided for in this Section 19, within one (1) year from date of acceptance of said Project, including all the installations thereon, excepting only the roadbed and highway sections, the State Highway Department shall advertise for public sale all of said installations which may have been acquired as provided in Section 12 hereof, and shall receive sealed bids therefor. It may reject any or all bids but shall dispose of all such properties within two (2) years after accepting title to the Turnpike Project.

Preliminary Expenses

Sec. 20. The State Highway Commission is hereby authorized in its discretion, if and to the extent requested by the Authority, to expend out of any funds available for the purpose, such moneys as may be necessary for the study of a Project and to use its engineering and other forces, including consulting engineers and traffic engineers, for the purpose of effecting such study and to pay for such additional engineering and traffic and other expert studies as it may deem expedient and all such expenses incurred by the State Highway Commission prior to the issuance of turnpike revenue bonds under the provisions of this Act, shall be paid by the State Highway Commission and charged to such Project, and the State Highway Commission shall keep proper records and accounts showing each amount so charged. Upon the sale of turnpike revenue bonds for any such project, the funds so expended by the State Highway Commission in connection with such Project shall be reimbursed to the State Highway Commission from the proceeds of such bonds.

Ref: Constitution, ART. 3, Sec. 52b, page 1.

Miscellaneous

Sec. 21. Each Turnpike Project when constructed and opened to traffic shall be maintained and kept in good condition

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and repair by the Authority. Each such Project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Authority may in its discretion employ. Within its discretion the Authority may make arrangements with the Department of Public Safety for the services of police officers of that Agency.

All private property damaged or destroyed in carrying out the powers granted by this Act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this Act.

All counties, cities, villages and other political subdivisions and all public agencies and commissions of the State of Texas, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request, upon such terms and conditions as the proper authorities of such counties, cities, villages, other political subdivisions or public agencies and commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or appropriate to the effectuation of the authorized purposes of the Authority, including highways and other real property already devoted to public use.

An action by the Authority may be evidenced in any legal manner, including a resolution adopted by its Board of Directors.

Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority, shall be punished by a fine of not more than One Thousand Dollars (\$1000).

Any person who uses any turnpike project and fails or refuses to pay the toll provided therefor, shall be punished by a fine of not more than One Hundred Dollars (\$100) and in addition thereto the Authority shall have a lien upon the vehicle driven by such person for the amount of such toll and may take

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and retain possession thereof, until the amount of such toll and all charges in connection therewith shall have been paid.

On or before the thirtieth day of January in each year the Authority shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. In making such report, each project shall be listed and reported separately. Each such report shall set forth a complete operating and financial statement covering its operations for each project during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operation of the Turnpike Project.

Additional Method

Sec. 22. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of turnpike revenue bonds or turnpike revenue refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds.

Act Liberally Construed

Sec. 23. This Act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof. (Acts 1953, 53rd Leg., p. 967, ch. 410.)

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