SELECT COMMITTEE ON PUBLIC EDUCATION
Senate Concurrent Resolution 22

Submitted to the Sixty-Eighth Legislature
November 1982
Report and Recommendations

SELECT COMMITTEE ON PUBLIC EDUCATION
Senate Concurrent Resolution 22

Recodification of the Education Code

WILLIAM P. HOBBY, CHAIRMAN
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SUBCOMMITTEE ON RECODIFICATION
OF THE EDUCATION CODE

Submitted to the Sixty-Eighth Legislature
November 1982
Select Committee
On Public Education

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Deputy Commissioner of Education
Austin, Texas
December 20, 1982

To The Honorable Governor of Texas and Members of the 68th Legislature:

I am pleased to present to you the Report and Recommendations of the Subcommittee on Recodification of the Education Code. This subcommittee was charged with reviewing the Texas Education Code relative to the need for recodification. It was the subcommittee’s responsibility to make several critical decisions regarding a proposed recodification project, including: should the recodification be substantive or non-substantive; what should be the timetable for such a project be; and what would be the appropriate structure for staff, public input and review of proposed drafts.

I appointed 16 advisors from the school law profession, who offered valuable assistance in the time-consuming process of reviewing the Education Code. Other experts in the field, as well as educational organizations, also offered their suggestions and comments, providing the subcommittee with useful direction. The major recommendation was the recodification of Chapter 19. You will note a proposed draft of this chapter appears as an appendix to this report. The draft contains reviewer’s notes which explain the various changes made throughout the chapter.

The report of the subcommittee was submitted to the Edit and Review Committee on September 15, 1982, and to the full Select Committee on September 16, 1982. Both groups reviewed the report and approved it without modification.

It is my hope that this report will prove beneficial to you during the course of the 68th Legislative Session. Education is one of our state’s greatest concerns, and a codified, up-to-date Education Code is paramount to conducting the business of the Central Education Agency and the school districts of this state in an efficient and organized manner.

Respectfully submitted,

[Signature]

William P. Hobby, Chairman
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House of Representatives
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September 15, 1982

The Honorable William P. Hobby, Chairman
Edit and Review Subcommittee

The Honorable Joe Kelly Butler, Vice Chairman
Edit and Review Subcommittee

Dear Governor Hobby and Mr. Butler:

I am pleased to submit the Report and Recommendations of the Subcommittee on Recodification of the Education Code to the Edit and Review Committee for its consideration.

The subcommittee, through its research and evaluation, took an initial yet major step toward the eventual recodification of the entire Texas Education Code. I am confident that you will find the results of this study to be highly beneficial in future efforts to codify and clarify the education laws of Texas.

This report represents many hours of public hearings, research, analysis and review. The advisers appointed to the subcommittee played a major role in the evaluation of the Code. One result of their efforts was a draft of Chapter 19 of the Education Code, which was mailed to the Texas Association of School Boards and other state and local professional education groups around the state. It is the belief of this subcommittee that the recommendations brought forth in the Chapter 19 draft represent concepts shared by many of these organizations. The valuable comments received by the subcommittee from many interested groups, including the Legislative Council, have served to reiterate the need for continued efforts to recodify the Texas Education Code.

The subcommittee will be happy to provide further information on any of its recommendations.

Respectfully submitted,

Representative Craig Washington, Chairman
Subcommittee on Recodification of the Education Code
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Historical Perspective

Education has been a major concern for both citizens and lawmakers of the State of Texas since the first "Education Act" was passed in 1839. This Act set aside three leagues of land in every county for the support of public "academies." Since that time, hundreds of pieces of education legislation or amendments to the existing statutes have been passed by Texas Legislatures.

Among early enabling education legislation was: the School Law of 1854, formally establishing the public education system in Texas by authorizing the original Permanent and Available School Funds; an amendment to the Texas Constitution in 1876 structuring the basic framework of school funding as practiced today; a constitutional amendment in 1883 authorizing the levy of a State ad valorem tax for financial support of education; and legislation attempting to equalize state and local support between urban and rural school districts.

Despite the growing volume of education law, for nearly a century after the Education Act of 1836 the laws were not in codified form. All laws passed by the Texas Legislature were simply listed, by year, in the General Laws of the State. In 1923, the 38th Texas Legislature authorized a commission to prepare a revision of these General Laws. The revised version, known as the Revised Civil Statutes, was enacted into law by the 39th Legislature in 1925. This version, however, offered only minimal organization for the education statutes.

A Handbook of Texas School Law was prepared by J. C. Hinsley in 1938. This was a collection of all laws, court rulings and Attorney General opinions on education. It was, essentially, the first attempt made at codifying education laws. Hinsley was one of the few practicing lawyers at that time specializing in Texas school law.

Perhaps the most significant early education law was the Gilmer-Aikin Bill in 1949. Among other things, this established the Central Education Agency consisting of an elected state board of education, the commissioner of education, and the state department; it also specified basic elements of a minimum foundation school program program.

The Gilmer-Aikin report also observed: "School law in Texas is a maze . . . contradictions abound; many laws are vague in their application; statutes no longer applicable remain on the books. For years recodification of the school laws of the State has been urged. The time for action is here." Little action was forthcoming.

The State Bar Association, in 1952, appointed a special committee to study the problem of the un-codified form of school law. In 1953, and again in 1955, the State Board of Education recommended that a commission to undertake the recodification process be created. Reasons for concern included the fact that each session of the Texas Legislature since 1925 considered a great amount of proposed education legislation and enacted many new statutes and amendments.

This trend continued. The 59th Legislature in 1965, for example, enacted at least 55 new statutes and/or amendments that were classified as public school laws.

In the early 1960s, the education code was still an impenetrable legal jungle and the education laws remained in no convenient, codified form. This conglomerate condition resulted in the lack of a practical or organized reference. This hindered school administrators from effectively discharging their responsibilities for the control and management of school districts. It was even difficult for lawyers to make statutory interpretations in order to settle disputes or prepare issues for litigation.

A proposed codification of the state's education laws was first submitted to the Legislature in 1961. House Bill 1077 of the 57th Legislature, Regular Session, was passed by the House only to die in the Senate. In 1963, the 58th Legislature directed the Texas Legislative Council, whose duties include drafting of legislative documents and legislative research, to carry out a revision program of the laws contained in the Civil Statutes. The task was monumental, and the Council had not gotten to the education laws by 1967, when another group took up that specific task.

In that year, the Governor's Committee on Public Education appointed an Advisory Committee on School Law Recodification. Its membership, representing major education interests in the state, included: Judge Hawthorne Phillips, chairman, Office of the Attorney General; Wales Madden, ex-officio representing the Governor's Committee; Ben Howell, State Board of Education; Bob Freeman, Texas Legislative Council staff; Ace Alsup, Superintendent, Temple Independent School District; Dr. Robert Clinton, Assistant Commissioner, Coordinating Board, Texas College and University System; Mrs. Mary Jo Carroll of Clark, Thomas, Harris, Denius and Winters, Austin; Traxel Stevens, representing L. P. Sturgeon, Texas State Teachers Association; William E. Stapp of Vinson, Elkins, Weems and Searls, Houston; Paul B. Horton of McCall, Parkhurst and Horton, Dallas; C. G. Whitten, Abilene School Board; and Robert E. Schneider, Jr., State Bar of Texas.
The committee worked with the Governor's Committee on Public Education and was assisted by Texas Education Agency staff and the Texas Legislative Council. Much of the actual editing process was carried out by the legal counsel for the Education Agency. Letters were sent to all department heads at the Agency whose policies were encompassed by the codification process, asking for suggestions and recommendations.

The work done by the committee and the Education Agency took nearly a year. The codification process was lengthy and involved, primarily because it had been neglected for so long. The process mainly involved constitutional revisions—eliminating all laws that had become obsolete since the education handbook had last been revised. The decimal system was used in numbering sections in the Code, and each statute had to be sorted out and placed under the proper heading. In addition, many new areas such as Finance Statements, Election of City Officials, Construction of Schools and the Election Code were included.

The Committee, however, did not do a substantive revision of the Code. As adopted by Acts of 1969, 61st Legislature, the revision codified the general and permanent statutes relating to public education, excluding certain laws relating to higher education. The Code, as enacted, consisted of three titles: Title 1, General Provisions; Title 2, Public Schools; Title 3, Higher Education. (Laws relating to higher education that were excluded in 1969 were revised by the Legislative Council and included in the Code by Acts 1971, 62nd Legislature.)

The 61st Legislature also passed some 49 other bills which either amended statutes included within the Code or enacted new law within the scope of the Code. While the Code was not immediately amended to reflect these changes, most of the bills were incorporated at least by the next session. Existing Attorney General opinions, however, which are given on an advisory basis upon request, were still not reflected in the Code; nor were many court rulings.

The Committee on Recodification did a substantial amount of work on the Code. There were, however, many laws which were not included in the 1969 revision process and this, in fact, remains one of the primary problems with the Code. Bracket bills—those laws pertaining to specific population groups or special school districts—were not included in this version. There are bracket bills which have some relevance to the system as it is today, such as those governing the Dallas and Houston school districts, but most bracket bills are antiquated and basically ignored. A recent recodification of the bracket bills, completed after the decennial census, contained few pertaining to education.

Special Laws, many of which are contained in Title 49, Education - Public, of the Civil Statutes, have not yet been repealed, but do not appear anywhere in the Education Code. These Special Laws have been dropped from Vernon's Civil Statutes and are currently listed alphabetically by subject matter, showing the former Vernon's classification, and original and amending citations to the General and Special Laws of Texas.

Laws pertaining to education also appear in other areas of Texas law. There are laws in the State Property Tax Code which pertain to education because school districts are a taxing entity. General governmental laws, although not currently in a codified form, contain miscellaneous provisions that impact education, including publishing notice of hearings and other regulatory provisions. Health laws, such as those governing inoculations, also impact the educational system of the State.

In the years since the 61st Legislature passed the recodification of the Code, many changes have taken place in the education laws of Texas. Many new laws have been added, applying to such areas as: teacher certification, election requirements, bilingual education, school finance, curriculum reform, property tax and Administrative Procedures. The 67th Legislature passed 54 bills dealing with schools and teachers, and many peripheral bills were enacted dealing with other aspects of education. The sheer numbers of education bills added to the Code present the problem of disorganization and confusion. Other laws, which are still in the Code, no longer have any relevance to the present educational system in the state.
Areas of Concern

The Select Committee on Public Education met on September 23, 1981, to discuss areas of concern in education. The Committee heard testimony from experts in education and educational law who expressed concerns with certain areas of the Education Code.

A majority of the concerns centered on Chapter 19, Creation, Consolidation and Abolition of School Districts. In general, the chapter was considered to be in need of a great deal of reworking. Some sections are conflicting, others duplicative. Many provisions are outdated and no longer applicable. The following concerns deal with specific subchapters of Chapter 19.

Subchapter A, Enlarging Districts by Annexing Other Districts

As with many other subchapters, this contains many references to county school trustees and/or boards. The problem, as brought forth in the testimony, is that these phrases are largely outdated because of Subchapter G, Chapter 17, Texas Education Code, as added by Chapter 478, Acts of the 64th Legislature, Regular Session, 1975, which eliminated county boards and superintendents. Therefore, statutory references to county boards and to the duties and obligations of those boards are obsolete.

Subchapter B, Creation of County-Wide Common School Districts.

There are currently only 10 common school districts and even fewer county-wide common school districts in Texas. The same is true of county-line districts, which appear in Subchapter D. Rural high school districts are addressed in Subchapter E, but there is only one such district still in existence today, and there is not any situation in Texas that would meet the eligibility requirements for such a district. It is unlikely that any additional rural high schools will be created in the future. Public testimony indicated the possibility that Subchapters B, D and E could be consolidated into one chapter.

Subchapter F, Municipal School Districts—Creation, Boundary Changes, Conversion, Etc.

Several pressing concerns appear in this subchapter; in fact, problems in this area have been the cause of recent litigation. Sections 19.161 and 19.162 of Subchapter F outline two different methods of creating municipal school districts. Section 19.161 requires only the instigation of the citizens of the municipal area who must sign a petition and forward it to the mayor. A district was recently formed under these provisions. The area in question involved less than 10 percent of the parent district (more than 10 percent would require the approval of the separation by the voters of the parent district), but it contained over 13 percent of the total tax base of the parent district. Unlike other sections dealing with creation, consolidation or separation of school districts, 19.161 has no provision for appropriately dividing and allocating bonded indebtedness.

Section 19.162, which would call for the creation of a municipal district at the instigation of the parent district, does provide for bonded indebtedness. Section 19.161 does not, so there is concern that when a parent district risks maintaining a high bonded indebtedness and loses part of its tax base—it could lose the ability to satisfy that obligation. The municipal area in question did eventually form its own school district, despite a court case raised by the parent district to prevent it.

Subchapter H, Consolidation of School Districts.

This section contains one outdated provision allowing for the consolidation of contiguous common school districts. There are no such districts remaining in Texas.

Another problem with Chapter 19 involves duplication between sections. Section 19.237 and 19.241, for example, both apply to consolidation involving at least one independent school district. Sections 19.238 and 19.242 both govern consolidations in which two independent school districts are involved.

Multiple petitions for consolidation present other concerns in Chapter 19. A situation arose recently in which two districts petitioned simultaneously for one district. Both petitions were circulated in both districts, but an election was held in only one district. The question was put before the Attorney General: Is it necessary to put all the petitions on the ballot at the election, or should the petitions be called in the order in which they were circulated and received? The Attorney General’s ruling stated that the statute was unclear on that point, thus indicating the need to address the issue statutorily.

Sections 19.245 and 19.361 pertain to the dissolution of school districts. Several situations have arisen in which either one of the sections could arguably be applicable. Their requirements are different and need to be reconciled with each other.

Education laws exist outside the education code which pertain to Chapter 19. There are bracket laws which no longer apply to the school districts they originally governed, and some laws which actually belong in Chapter 19 remain outside it. Testimony indicated that this was of continuing concern to educators and lawyers practicing education law.
Testimony also indicated that Chapter 23 was in need of some minor revision. Most of the revision, although not as urgently needed as in Chapter 19, would involve including applicable laws that are now outside the Code. Section 23.023, dealing with districts with 66,000 or more students in ADA, requires a nine-member board of trustees, with seven members to be elected by position and two members to be elected at-large. These provisions technically apply to Dallas and Houston; however, Section 23.023 also provides that any single member trustee district in existence prior to 1975 may continue to operate under that plan. Both Dallas and Houston have their own special statutes governing their election procedures and neither appear in the Education Code.

After hearing testimony favoring a revision process of the Code, the Select Committee made the decision to appoint a Subcommittee on Recodification of the Education Code. This subcommittee was charged with studying the present code and analyzing further testimony from educators, lawyers and other interested parties.
Advisory Committee Priorities

Lieutenant Governor William P. Hobby appointed a group of 16 advisers to the recodification subcommittee, composed entirely of lawyers most of whom specialize in education law. The advisory committee divided into three subcommittees, each charged with studying certain areas which the advisers believed presented key problems hindering the effectiveness and efficiency of the Code.

Chapter 19.
One subcommittee studied Chapter 19 and submitted the following suggestions for revision:

I. Overall Suggestions Pertaining to Chapter 19

(A) Addition of a section which would provide for adjustment of bonded indebtedness following any procedure under Chapter 19 in which territorial boundaries of two or more districts are changed. At present, this is provided in some, but not all, cases.

(B) Addition of a section which would provide for passage of title from the parent district to the acquiring district following any procedures under Chapter 19 in which territorial boundaries of two or more districts are changed. Section 19.262(i) already provides this for annexation of districts in larger counties under Section 19.262, and the subcommittee felt that this would be a desirable addition to Chapter 19 as a whole.

(C) With respect to common school districts, it was felt that a single subchapter containing provisions pertaining to common school districts would be more workable than having various provisions scattered throughout Chapter 19. Additionally, there are some provisions dealing with common school districts which, as a practical matter, have become obsolete and could simply be dropped, such as provisions dealing with creation of common school districts. (These recommendations are applicable to Subchapters B, D, G and M.)

(D) Addition of a section which would standardize the requirements and procedures for the various elections provided for in different Subchapters of Chapter 19.

(E) Addition of a section setting up a uniform time limitation on the frequency with which Chapter 19 procedures may be undertaken. The subcommittee suggested recommending a three-year period following a Chapter 19 procedure with an alternate suggestion that perhaps a lesser period of time might be appropriate in cases where the attempted procedure has not been successful.

(F) Examination of sections which contain specific population brackets in order to determine if the figures used are still relevant or necessary. (This recommendation pertains to Subchapters J and K.)

(G) With respect to the numerous instances in Chapter 19 in which a specific power or duty is assigned to a county board of education or county school trustees or other entity which has been abolished or superseded, changes should be made to reflect assignment of powers or duties to the appropriate entity. This is particularly true with respect to changes brought by Education Code Sections 17.94-17.99. (These changes are applicable to Subchapter A, Chapter 19.)

(H) In many areas of Chapter 19, there are references to petitions signed by qualified voters. It is suggested that there ought to be an overall standard or definition which would set up a presumption as to the qualified voter status of signatories in order to avoid drawn out proceedings on this issue. One suggestion would be that if the individual’s name appeared on the county’s list at the time of signature, that this constitutes a qualified voter for purposes of validating the petition.

II. Suggestions Pertinent to Specific Subchapters of Chapter 19 (In addition to those mentioned above.)

(A) Subchapter E. There is only one remaining rural high school district in Texas, and there is no possibility of creating additional such districts. A separate subchapter is unnecessary.

(B) Subchapter F. This subchapter generated a variety of suggested recommendations as follows:

(1) Repeal of Section 19.161 coupled with some amendment to Section 19.162, (Amendments to Section 19.162 would broaden the scope of Section 19.162 to also include districts within the limits of a city or town which are currently covered by Section 19.161.)
(2) As an alternative, if the first recommendation is rejected, the subcommittee would suggest that Section 19.161(a) be amended so that approval by majority vote of the residents of each district would be required if either a 5 percent change in tax base would occur or if a 10 percent reduction of the total area of the existing district would occur. (As it now exists, only a 10 percent area reduction would trigger this requirement.)

(3) There was a consensus among subcommittee members that 50 was too low a number of voters, in many cases, to initiate proceedings under Section 19.161 and that Section 19.162(b) also needs to be amended in this regard. Therefore, it is suggested that both Section 19.162(b) and 19.161(b) should be amended to read:

“A petition, signed by at least _____ % of the resident qualified voters or by at least 500 resident qualified voters . . .”

(The percent requirement could be used by any small town while the alternate requirement of 500 signatures could be less burdensome for larger cities while it would still insure that the measures could not be initiated by a very small, unrepresentative group.)

(4) The overall suggestions with respect to the passage of title and adjustment of bonded indebtedness would certainly be important with respect to this subchapter as would suggestions with respect to common school district provisions.

(C) Subchapter H. Some sections are duplicated: Sections 19.237 and 19.241 both refer to consolidation involving independent school districts; Sections 19.238 and 19.242 refer to consolidation involving two independent school districts. See also I(c) above.

(D) Subchapter I.

(1) In keeping with I(c) above, it is suggested that Section 19.261 (f) be amended to read:

“. . . shall notify any persons or entities which may be affected . . .”

(2) Among subcommittee members, there was no consensus as to the preferred recommendation for dealing with some of the problems arising under this subchapter. The following attempts, in summary, to present the divergent views:

(i) One suggested recommendation is that the county commissioners not be assigned to hear detachment and annexation matters but that these matters be heard by another entity with more educational expertise and less political stake in the outcome. It was suggested that perhaps the Commissioner of Education would be a logical alternative to the County Commissioners. This would eliminate some problems which arise (such as no record of the proceeding) when matters are appealed to the Commissioner of Education from County Commissioners.

(ii) The counter-argument was that County Commissioners, being more familiar with the geography, economy, etc., would be better qualified to consider these matters than a more removed entity.

(iii) If the County Commissioners are retained as the initial hearing body, it was suggested than an appeal from their decision go directly to District Court rather than through the Commissioner of Education and also that some further criteria be set up for the County Commissioners to consider in hearing the matter (such as impact on tax base, other economic impact on the parent district, geography, traffic, community development and population shifts).

(E) Subchapter N. There was no recommendation concerning this subchapter, but this could be a vehicle for an overall provision for adjustment of bonded indebtedness if amended for that purpose.

III. Recommendations Concerning the Education Code as a Whole, or Chapters in Addition to 19
Although recognizing the limited scope of this subcommittee's duties, several topics outside of Chapter 19 did arise and it was decided to consider them if long term work on the Education Code does emerge as a recommendation by the Advisory Committee.

(A) Consideration of requiring through legislation that all school districts be independent districts.

(B) Alternatively, unnecessary or obsolete references to common school districts should be deleted throughout the Code.

(C) Specifically, with respect to the School Depository Act, Sections 23.71-23.80, that provisions be added concerning a district's course of action with respect to a new depository if the bank with which a district has contracted fails.

Chapter 26.

A second subcommittee of advisers examined Chapter 26 of the Code, concerning rehabilitation districts for handicapped persons. Information the subcommittee had gathered indicated that current or recent legislation and current operating practices in this district mandate changes in the present chapter. The subcommittee felt that this was not a statewide issue at this time and suggested that this information be included as an Appendix to the report (See Appendix A).

Other Chapters.

The third subcommittee of advisers looked at general provisions for recodification/revision within the Code and submitted a list of suggested priorities.

I. Chapter 11, Central Education Agency

This chapter is one of the most comprehensive chapters in the Education Code. It establishes the relationship between and among the various operations and responsibilities of the Central Education Agency and the relationships of those component parts with other agencies and school districts. Questions were raised concerning the authority of the Central Education Agency in relation to these other agencies. Specific issues which need to be addressed are the Agency's powers and authorities relating to accreditation and hearings which arise as a result of local school district hearings, particularly those which arise under the Administrative Procedure Act and Section 11.13 of the Texas Education Code.

II. Chapter 17, County Administration

The county administration chapter is closely aligned with the problems associated with Chapter 19. There are few school districts which require county administration, and this chapter needs to be adjusted to reflect that change. Unfortunately, references are continually made throughout the Education Code to county boards of education. Consideration should be given to removing county administration from the concept of public school governance. School districts, to the extent they are responsible to any other agency, should be responsible to the Central Education Agency rather than an intervening county level of government.

(As subsequently the submission of the advisers' report, it was determined that, since county school administrators do still exist in some areas of the state, all references to such administrations—including those in Chapter 17—are still valid and can be eliminated only when county school districts are eliminated.)

III. Chapter 21, Provisions Generally Applicable to School Districts

This is a catch-all chapter which should be reviewed in conjunction with Chapters 22 (Common School Districts), 23 (Independent School Districts), 24 (Municipal School Districts) and 25 (Rural High School Districts.) There are conflicting and confusing provisions in each of these chapters which should be re-examined in light of current practices and school organization in Texas.

IV. Chapter 130, Junior College Districts

Junior college districts have very few statutes regulating their existence and operation. Section 130.084 attempts to incorporate the law on independent school districts (Chapter 23) as the regulating law where there is no specific law pertaining to junior colleges. The entire concept of governance and operation of community colleges and their ultimate responsibility needs to be re-examined, based upon current concepts and practices.
V. Possible Consolidation of Employment-Related Sections

There are sections related to employment which run throughout the Education Code, and there is no system of cross-referencing to assist in dealing with employment-related matters. Either the employment-related matters need to be consolidated in one chapter, such as Chapter 21, or a better system of cross-referencing needs to be provided. There are, however, significant problems in determining which statute applies to employment. A legislative system of cross-referencing would be beneficial in determining which statute applies in a given situation. Also, there is a problem with the lack of cross-referencing educational statutes to the other statutes, such as requirements for the sale of land, etc.
Recommendations of the Subcommittee

The Subcommittee on Recodification of the Education Code has spent many hours in research, analysis and public hearings in order to determine which areas of the Code are most in need of recodification work. Recommendations from the advisory committee, public testimony, and the subcommittee's own knowledge of the Education Code resulted in four recommendations.

The subcommittee directed the Legislative Council to prepare a draft of Chapter 19 of the Education Code, which was subsequently reviewed by the subcommittee and put forth as a recommendation:

1. The Subcommittee recommends that the Legislative Council's draft of a substantive revision of Chapter 19, Texas Education Code, Creation, Consolidation and Abolition of School Districts, be prepared for introduction and consideration by the 68th Legislature, Regular Session.

Recodification of the entire Code could be considered timely; however, the Legislative Council operates under an extremely heavy work load, and there are other areas of Texas law which are not yet codified. Since Chapter 19 deals with the creation, consolidation and abolition of school districts, it was selected, in addition to several other chapters, by the Advisory Committee as a priority to review. It was determined by the Advisory Committee and the subcommittee that this is the chapter most in need of revision.

As presently constituted, Chapter 19 is a hodgepodge of differing manners in which school district boundaries and control may be altered. There is little consistency in the chapter's treatment of such issues as petitions, elections and transfer of authority. Further, many provisions of Chapter 19 are antiquated.

The preliminary draft of Chapter 19 (See Appendix B) contains reviewer's notes after each change, explaining why such was made.

2. The Subcommittee recommends that an advisory committee be appointed to conduct continuing review of the Texas Education Code. This advisory committee shall be appointed by the Chairman of the Legislative Council, approved by and serve at the pleasure of the Council. It should be representative of lawyers practicing school law, public school administrators, the State Board of Education and the Attorney General's office, as well as geographically representative of all areas of the state. Members should be eligible for reappointment and for reimbursement of their actual expenses. The chairman of the advisory committee should be designated by the Chairman and Vice Chairman of the Legislative Council.

The need for the formation of such an advisory committee is based on the number of amendments and special laws pertaining to education that are not included in the current Education Code. Moreover, other chapters of the Code are in need of reworking and reorganization. Some subjects are scattered through several chapters and many provisions should be refined on the basis of experience and changing circumstances. In its present form, the Code is difficult to utilize for both attorneys and lawyers. The Code needs to be reviewed as an on-going process, and priority consideration should be given to those chapters reviewed by the advisory committee.

3. The subcommittee recommends that information regarding Chapter 26, Texas Education Code, concerning the rehabilitation districts, be forwarded to the Legislature without specific recommendations as an appendix to this report. (See Appendix A)

This appears to be a local matter and not one of statewide policy concern. Moreover, this is a short chapter, and pertains to only one district at this time. For this reason, members of both the subcommittee and the advisory committee felt this chapter should not be included in the general recodification but should be dealt with in the regular legislative process.

4. The subcommittee recommends that the Central Education Agency, in cooperation with the Legislative Council, identify those laws that are obsolete and those that are still applicable to public education. This report should be forwarded to the Advisory Committee to the Legislative Council (See Recommendation 2) for their review. Legislation should then be prepared that would recodify those laws of continuing value in the appropriate sections of the Education Code and repeal those which are no longer applicable.

The great number of special and local laws, particularly bracket bills, that are not published in the Code and may be obsolete, make it imperative that all existing educational laws be sorted out and evaluated as to their relevance to the present day educational system in Texas.
Appendix A

A subcommittee of advisers studied Chapter 26 of the Texas Education Code regarding rehabilitation districts for handicapped persons. Information gathered illustrated the fact that current or recent legislation and current operating practices in the rehabilitation district now in operation indicate a need to consider changes in the chapter as it now exists in the Code.


(A) Section 26.01(1)—Definitions need to be amended by removing “socially maladjusted” and “language” from language learning disabilities. These terms are not included in classification of the handicapped.

(B) Section 26.01(2)—The definition of special services needs to be the same as found in Section 16.104(b).

(C) Section 26.01(3)—Nonhandicapped Scholastic needs to be defined as certain students who are not able to succeed in their local district programs and students who have exceeded compulsory school age and choose to enroll in the district’s programs. Reasons other than being handicapped can contribute to a student not being able to succeed in his/her local district programs.

(D) Section 26.01(5)—The definition of trainee needs to be defined as handicapped student as defined in 16.104(c)(1).

II. Subchapter B, Creation of District

(A) The phrases “and own taxable property” and “who have duly rendered their property for taxation” in regard to voters in the district are obsolete. They were removed by Texas Election Law, 1982-83, Article 5.02.

III. Subchapter C, Administrative Provisions.

(A) Section 26.31—Concerning the Board of Directors, the figure “50,000” should be replaced with “100,000.” Since four members are elected from each county and one member-at-large is appointed, the 100,000 figure gives adequate representation of the county populations and prevents the board from becoming too large. (See Table 1.)

<table>
<thead>
<tr>
<th>TABLE 1</th>
<th>South Texas ISD 031-916</th>
<th>Membership: Board of Directors</th>
<th>Reference: Texas Education Code, 26.31</th>
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<tbody>
<tr>
<td>One member elected from each county</td>
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<td>Hidalgo</td>
<td>Willacy</td>
</tr>
<tr>
<td>commissioner’s precinct</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>One appointed at large</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>One appointment/50,000 population</td>
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<td>6</td>
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</tr>
<tr>
<td>1980 census</td>
<td></td>
<td></td>
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<tr>
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<td>11</td>
<td>5</td>
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<tr>
<td>Recommendation #3</td>
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<td>Hidalgo</td>
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<tr>
<td>One member elected from each county</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>commissioner’s precinct</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One appointment at large</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>One appointment/100,000 population</td>
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<td>3</td>
<td>--</td>
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<tr>
<td>(1980 census)</td>
<td></td>
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<tr>
<td><strong>PROPOSED MEMBERSHIP</strong></td>
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<td>8</td>
<td>5</td>
</tr>
</tbody>
</table>

Since a change necessitates action by the State Legislature, a phase-in period would require several years.

June 1982 Legislative Action

April 1984 Appointed directors whose terms expire would not be reappointed, except as new plan required.

April 1986 Appointed directors whose terms expire would not be reappointed, except as new plan required.
IV. Subchapter D, Powers and Duties.

(A) Section 26.64(c)—This section on admission needs to be amended by removing the balance of the section beginning with line 6 “county school superintendent. If a handicapped . . .” and substituting “another youth centered agency; however, a student who has passed the compulsory school age may initiate his/her own referral process.” The position of county school superintendent has been abolished and youth centered agencies such as, but not limited to, Department of Human Resources, Texas Rehabilitation Commission, juvenile judges and orphanages should be allowed to initiate the referral process.

The district's procedure stipulates that the student's home school district will be contacted if referral is made by any agency other than the home school, except for students who are of age.

(B) Section 26.65(a)—This section needs to be amended by removing “between the ages of 14 and 21, inclusive” and (from 26.65(b)) “except that the district's allocation shall be limited, computed upon, and restricted to include only children between the ages of 14 and 21, both inclusive.” With the approval of the Board of Directors, a few students who are under the age of 14 are admitted into the district; the students are then “ineligible” under the current regulation although no school district is receiving credit for their attendance. Also, handicaps such as emotional disturbance do not wait until a child is 14 years of age; since the district is serving as an alternative residential placement facility, the Commissioner of Education would regulate ages of students served as well as types of handicapping conditions that the district should address. This would also give the Commissioner of Education authority to establish a residential placement program for children much younger than 14 if the area and/or state should need such facility as an alternative to existing residential programs.

(C) Section 26.68—This section on Federal Aid should be amended by removing “provided, further, that for rehabilitation program purposes only and to receive any funds available for rehabilitation purposes for which the district otherwise may be eligible, the authority of the district shall be restricted to include persons not over 25 years of age.” A rehabilitation district which is funded and regulated by the Texas Education Agency should serve only eligible students between the ages of 6 and 21, inclusive, unless exception is made by the Commissioner of Education.

(D) Section 26.70—The phrases “as living units, with or without board” and “who have become gainfully employable and/or employed.” This change would enable the rehabilitation district to serve emotionally disturbed students who need residential placement. The goal for these students is to assist them in overcoming or adjusting to their handicaps and to return them to their home school. Job placement, therefore, would be a secondary goal and unnecessary for these students during the period of residential placement.

V. General Provisions for Chapter 26

(A) Substitute the word “student” for the word “person” as it appears throughout Chapter 26. The general understanding of Section 26 is “student” rather than “person.”
Appendix B

PRELIMINARY DRAFT

REVISION OF CHAPTER 19, TEXAS EDUCATION CODE

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D68R286(3) SRC
INTRODUCTION

This revision of Chapter 19 is based on the recommendations of the Advisory Committee to the Subcommittee on Recodification of the Education Code of the Select Committee on Public Education. The revision was prepared by Steve Collins, Senior Legislative Counsel, with assistance from other members of the legal staff of the Texas Legislative Council.

This revision is arranged to facilitate review. Each section begins with the Revised Law, which is the new law proposed by the revision. The Source Law follows immediately after the revised law and consists of the existing statutory provisions from which the revised law derives. If an explanation of the differences between the revised law and the source law is necessary, a Revisor's Note follows the source law.

For purposes of consistency, a goal implicit in the recommendations, the revision replaces references to the board of county school trustees or the county school board with references to the commissioners court of the county. County administration has been abolished in all but a few counties under the provisions of Chapter 17, Texas Education Code; Section 17.96(e) transfers the powers and duties of county administration under Chapter 19 to the commissioners court. This revision takes the transfer one step further and gives the necessary authority to the commissioners court in all counties, including those with county administration.

Also for purposes of consistency, this revision replaces most references to "scholastic population" with "membership." "Membership" is defined in Section 19.001 of the revision and is a figure routinely reported to the education agency in the superintendent's annual report. References to scholastic population are obsolete because the statutory authority for the scholastic census was repealed in 1975 and the census had not been taken for several years before the repeal. No accurate accounting currently exists for scholastic population.
CHAPTER 19. CREATION, CONSOLIDATION, AND ABOLITION
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CHAPTER 19. CREATION, CONSOLIDATION, AND ABOLITION OF
SCHOOL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 19.001. DEFINITIONS. In this chapter:

(1) "School district" includes an independent school
district, a common school district, and a rural high school
district.

(2) "Common school district" includes a rural high
school district.

(3) "Membership" means the number of pupils on the
roll of a school district as of a given date. (New.)

Revisor's Note

The revised law adds these definitions for
drafting convenience. Subdivision (2) is derived from
Sec. 25.01, Texas Education Code, which classifies
rural high school districts as common school districts.
Subdivision (3) is derived from Tex. Admin. Code Tit. 19, Sec. 117.1(b)(J) (1981), which is the definition used by the education agency for its rules relating to pupil attendance accounting.

Revised Law

Sec. 19.002. PERMITTED FREQUENCY OF PROPOSED ACTIONS. (a) If at an election on a proposition under this chapter the majority of the votes are cast against the proposition, another election for the same purpose may not be held earlier than the corresponding uniform election date three years after the date of the first election. If a majority of the votes are cast in favor of the proposition, an election to reverse the effects of the first election may not be held earlier than the corresponding uniform election date three years after the date of the first election.

(b) If, without an election, an action under this chapter occurs on the order or ordinance of an authority acting in response to a petition and the petitioners' request is rejected, that authority may not consider a subsequent petition on the same request earlier than three years after the date on which the request is rejected. If the request is granted and the order is issued or the ordinance is adopted, a petition to reverse the effects of the order or ordinance may not be considered by the authority earlier than three years after the date of issuance or adoption. (New.)

Revisor's Note

This section is added on the recommendation of the advisory committee. Most sections of the present Chapter 19 do not specify a time limit on the frequency of proposed actions. Section 19.365 does provide a
12-month limitation on elections abolishing a district
or creating a new district from the abolished
district's territory, but the advisory committee
recommended a three-year period for all actions.

Revised Law

Sec. 19.003. PETITION AND ELECTION. (a) Except as
otherwise provided by this chapter, this section governs:

(1) the validity of a petition submitted to request an
election under this chapter; and

(2) the conduct of the resulting election.

(b) To be valid, a petition must:

(1) be submitted to the county judge serving the
county in which the appropriate school district is located;

(2) be signed by at least 10 percent of the registered
voters of the appropriate district; and

(3) state the purpose for which it is being submitted.

(c) Immediately following receipt of a valid petition, the
county judge shall order the election to be held on an authorized
election date, as prescribed by Section 9b, Texas Election Code
(Article 2.01b, Vernon's Texas Election Code), occurring not later
than the 60th day after the date of receipt. If an authorized date
within that period does not allow sufficient time to comply with
other legal requirements or if there is no authorized date within
that period, the election shall be ordered for the next authorized
date.

(d) The election order shall include the date of the
election, the hours during which the polls will be open, the
location of the polling places, and the proposition to be voted on.

(e) Not earlier than the 30th day or later than the 10th day
before election day, the county judge shall give notice of the
election by having a copy of the election order published at least
once in a newspaper published at least once each week in the
appropriate school district. If no such newspaper is published in
the district, the notice shall be published in at least one
newspaper of general circulation in the county in which the
district is located. The county judge shall give additional notice
of the election by having a copy of the election order posted in a
public place in each election precinct not later than the 21st day
before election day.

(f) The election precincts and polling places usually used
in the elections of the appropriate school district shall be used
in an election held under this chapter. To the extent practical,
the election shall be conducted in accordance with the general
election laws.

(g) As soon as practical after the election, the appropriate
county commissioners court shall canvass the returns and declare
the result of the election. (New.)

Revisor's Note

(1) This section is added on the recommendation
of the advisory committee. The present Chapter 19 does
not provide for consistent methods or dates of notice,
nor does it provide consistent dates for the elections
involved. To the extent possible, this section
standardizes the procedures to be followed in the
elections prescribed by Chapter 19. The individual
subchapters occasionally provide a different or
additional rule as circumstances require. The
reference to Sec. 2.01b, Vernon's Texas Election Code,
states the current law, notwithstanding the absence of
references in the present Chapter 19 to that section.

(2) Although the recommendation of the advisory
committee regarding the number of signatures required
on a petition addressed a specific section, the revised
law expands on the recommendation to provide a
consistent signature requirement for all Chapter 19
actions. The subcommittee adopted 10 percent of
registered voters as an equitable requirement. By
requiring the signature of "registered" rather than
"qualified" voters, the revised law incorporates an
advisory committee recommendation that a signer be
presumed qualified to vote.

(3) The revised law provision relating to notice
of the election derives both from the various
provisions of Chapter 19, which generally require
posting of notice, and from Art. 29e, Vernon's Texas
Civil Statutes, which governs publication of notice of
school district elections.

Revised Law
Sec. 19.004. ALLOCATION OF INDEBTEDNESS AND PERSONAL
PROPERTY. (a) If under this chapter a school district assumes a
portion of the indebtedness of another district, the commissioners
court by order shall equitably allocate the indebtedness among the
districts involved. If territory from one district is annexed to
another or if a district is abolished, the commissioners court
shall also equitably allocate among the receiving districts a
portion of the personal property of the annexed district or all the
personal property of an abolished district. If districts located
in more than one county are involved, the commissioners courts of
each county in which an involved school district is located must
agree on the allocation of indebtedness and personal property.

(b) In allocating the indebtedness and personal property,
the commissioners court shall consider the value of the properties
involved and the taxable value of the districts involved.

(c) The order of the commissioners court is binding on the
school districts and territory affected by the order.
(d) A school district required to assume the indebtedness of another district under this chapter is not required to conduct an election on assumption of the indebtedness. Without an election, the school district assuming the indebtedness may levy and collect taxes necessary to pay principal and interest on the assumed debt so long as the debt is outstanding.

(e) Without an election, a school district may issue refunding bonds for bonds of another district assumed under this chapter.

(f) If an entire district is annexed to or consolidated with another district, if a district is converted from a common to an independent school district, or if a school district is separated from an incorporated city or town, the governing board of the district as changed may, without an election, sell and deliver any unissued bonds voted in the district prior to the change, and may levy and collect taxes in the district as changed for the payment of principal and interest on bonds. (New.)

Revisor's Note

(1) This section is the result of an advisory committee recommendation that the chapter contain one section providing for adjustment of the bonded indebtedness of districts that undergo boundary changes.

In accordance with the recommendation, the section is based on Subchapter N of the present Chapter 19, but the differences are significant. The present Chapter 19 provides for adjustment of the indebtedness in all but two cases—commissioners court annexation to create enlarged districts under the present Subchapter A and conversion of a common school district to an independent school district. In the latter of those two cases, mention of bonded indebtedness may not be
necessary but is nonetheless useful.

Among the present actions, Subchapter N is specifically adopted in four cases—detachment and annexation under Sec. 19.261, detachment and creation of a new district under Sec. 19.263, disannexation of territory from a municipal district under Sec. 19.165, and abolition of a common school district under Subchapter M. In all other cases, all or part of one district's indebtedness is assumed by another district, with distribution usually made on market value determinations. Occasionally, the statute involved will speak of assumption of all debt (e.g., Sec. 19.245). In other instances, the statute addresses only bonded indebtedness (e.g., Sec. 19.301). In addition, there is no consistency as to whether an election is required in order for the district to assume the debt.

The present Subchapter N does not require an election for assumption of the debt, but allows the commissioners court to order a refunding bond election. If the election is not ordered by the district or fails, the commissioners court may levy the taxes necessary to retire the indebtedness. The commissioners court, under Sec. 19.437, may use other methods of adjusting the debt.

In order to present a consistent approach to adjusting indebtedness, the revised law:

(1) requires the commissioners court to adjust and allocate any outstanding indebtedness, bonded or otherwise;

(2) provides that a district that is allocated all or part of another district's indebtedness assumes it without an election;
(3) provides that a district assuming indebtedness of another district may, without an election, levy the taxes necessary to pay the indebtedness; and

(4) removes the authority of the commissioners court to order refunding of bonds, but authorizes the school district assuming the debt to issue refunding bonds without an election.

This section of the revised law also provides a method of allocating personal property of districts involved in boundary changes, which the commissioners court may now do under Sec. 19.431. Each subchapter of the revised law contains a provision that vests title to real property in the district assuming the territory and provides for the assumption of the indebtedness.

Subchapter N reads:

**SUBCHAPTER N. ADJUSTMENT OF BONDED INDEBTEDNESS BY COUNTY GOVERNING BOARD**

Sec. 19.431. DUTY OF COUNTY GOVERNING BOARD. Whenever a board of county school trustees or a county board of education has participated in the creation of any new school district or in the changing of the boundaries of any existing district (whether by consolidation, by detachment-attachment, by subdivision, or by any other authorized means), it shall be the duty of the county governing board to make an adjustment of any outstanding bonded indebtedness and district properties of any district or districts affected.

Sec. 19.432. BASIS FOR ADJUSTMENT. The county governing board shall take into consideration the value of the school properties and the taxable wealth of the districts affected and the territory so divided, detached, or added, as the case may be, to make an equitable adjustment of the indebtedness and the district properties between the districts affected and between the territory divided, detached, or added.

Sec. 19.433. ADJUSTMENT ORDERS. (a) When the governing board has arrived at a satisfactory basis of such an adjustment, it shall have the power to make such orders in relation thereto as shall be conclusive
and binding upon the districts and the
territory affected thereby.

(b) The county governing board may
order the trustees of the districts
affected to order an election for the
issuing of such refunding bonds as may be
necessary to carry out the purposes of the
order of the county governing board.

Sec. 19.434. REFUNDING BOND
ELECTION. In the event an election is
ordered by the county governing board, it
shall be the duty of the district trustees
to order such election and to cause the
same to be held.

Sec. 19.435. REFUNDING BONDS. (a)
If a majority of the voters casting votes
at a refunding bond election held to carry
out the orders of the county governing
board favoring the issuance of refunding
bonds, the provisions of this section
apply.

(b) The bonds shall be issued by the
district trustees.

(c) The bonds shall be of the same
denomination and carry the same interest
rate and mature at the same time as the
outstanding bonds owning by the district
issuing them.

(d) The new bonds, when so issued,
shall be subject to exchange for the
outstanding bonds for which the district
issuing them shall still be liable,
according to the order adjusting the
indebtedness. In the event an exchange of
the new bonds for the outstanding bonds
cannot be made, the new bonds of the
district, to the amount of the old bonds
for which it is still liable and to which
no exchange can be made, shall be deposited
in the county treasury to the account of
the district.

(e) Taxes shall be levied and
assessed only for the payment of interest,
sinking fund, and principal of the new
bonds so issued. The funds arising from
taxation shall be used to discharge the
principal and interest of such new bonds as
have been issued and exchanged and such old
bonds as have not been exchanged.

(f) When taxes are collected
applicable to new bonds not exchanged and
the proceeds applied to payment on old
bonds not exchanged, the corresponding new
bonds in the county treasury shall be
credited with such payment and retired as
the old un-exchanged bonds are retired.

Sec. 19.436. FAILURE OF BOND
ELECTION. (a) If a refunding bond
election held to carry out the orders of
the county governing board fails to secure
approval of a majority of the voters voting
at such election or if the county governing
board is unable otherwise to arrange an
adjustment or settlement of outstanding
bonded indebtedness, it shall be the duty
of the county governing board to certify to
the commissioners court that the bonded
indebtedness of the territories affected by
the changes has not been adjusted.

(b) Upon receipt of such
certification, it shall be the duty of the
commissioners court thereafter annually to
levy and cause to be assessed and collected
from the taxpayers of the districts as they
existed before the changes were made, the
tax necessary to pay the interest, the
sinking fund, and the principal of the
indebtedness as it matures.

(c) It shall be the duty of each
independent school district so affected to
cause all funds in its hands, whether
sinking funds or otherwise, which have been
collected on account of such bonded
indebtedness, to be transferred to the
county treasurer of the county in which the
district is situated, and the district
shall thereafter cease to levy and collect
any tax on account of such bonds.

(d) It shall be the duty of the
county treasurer to keep all funds
transferred by independent school districts
affected and all funds collected by the
taxation authorized in Subsection (b) of
this section in separate accounts and apply
the same only to the discharge of the
existing bonded indebtedness and the
interest thereon, it matures.

Sec. 19.437. DISCRETION OF COUNTY
GOVERNING BOARD. The county school
trustees or county boards of education as
the case may be, shall not be restricted to
the method of adjusting bonded indebtedness
set out in the preceding sections of this
subchapter, but they shall have full power
and authority to make any legal and
equitable adjustment and settlement that
can be effected to adjust the bonded
indebtedness of any district affected by
any type of authorized boundary change.

(2) Because Secs. 19.004 and 19.006 of this
revision eliminate the need for elections to assume
debt or levy taxes following boundary changes, the
revised law omits Subchapter O of the present Chapter.

19. The omitted subchapter reads:

SUBCHAPTER O. ADJUSTMENT OF BONDED
INDEBTEDNESS BY DISTRICT TRUSTEES

Sec. 19.461. AUTHORITY OF DISTRICT
TRUSTEES. The trustees of any school
district, independent, common, or rural
high school, as such district exists after
consolidation, annexation, subdivision, or
any other authorized type of boundary
cchange, are authorized to call an election
for any one or all of the following purposes:

(1) To assume any bonded or other debt created by the district as it previously existed or by any district or districts wholly or partially incorporated in the district as constituted after the boundary change.

(2) To levy taxes for the payment of any previously existing debt of the district as it previously existed or by any district or districts wholly or partially incorporated in the district as constituted after the boundary change.

(3) To levy taxes for the further maintenance and operation of the district as constituted after the boundary change by the qualified taxpaying voters of the new district.

Sec. 19.462. ELECTION. Any election called under the authorization of Section 19.461 of this code shall be held at such time and in such manner and upon such notice as specified in Section 20.04 of this code. A rural high school election shall be held under the rules applicable to independent school districts.

(3) Provisions parallel to Sec. 19.004(f) of this revision may be found in Secs. 19.262(f), 19.105(i), and 19.135(i) of the present Chapter 19.

Revised Law

Sec. 19.005. EFFECTIVE DATE OF TRANSFER. (a) Except as provided by this section, the annexation of all or part of the territory of one district to another is effective on the first July 1 that is more than 30 days after the date of the order or ordinance accomplishing the annexation or of the declaration of the results of an election at which the transfer is approved.

(b) On the effective date of the transfer:

(1) students residing in the territory become residents of the receiving district;

(2) title to property allocated to the receiving district vests in the district;

(3) the receiving district assumes any debt allocated to it; and

(4) the receiving district assumes jurisdiction of the
annexed territory for all other purposes.

(c) If the annexation is appealed to the commissioner of education and is approved, the transfer is effective on a date set by the commissioner that is not earlier than the 30th day after the date of the commissioner's decision in the appeal. If the decision of the commissioner is appealed to the State Board of Education, the transfer, if approved, is effective on a date set by the board. (New).

Revisor's Note

This section is added at the recommendation of the advisory committee. The advisory committee originally recommended a date for transfer of the taxing authority only. The desirability of a uniform effective date for all aspects of the annexation became apparent later. See Sec. 19.006 and the revisor's note under that section.

Revised Law

Sec. 19.006. TAXING AUTHORITY TRANSFER. (a) If all or part of the territory of a school district is annexed to another district, the receiving district may levy taxes at the rate established in accordance with law for the district as a whole and is not required to conduct an election for the purpose of taxing the territory received.

(b) Conversion of a common school district or rural high school district to an independent school district or separation from municipal control does not affect the taxes levied for school purposes. The new district may levy and collect taxes at the same rate at which the taxes were previously levied and is not required to conduct an election for that purpose. (New.)
Revisor's Note

Sections 26.13 and 26.14, Tax Code, provide rules governing the transfer of taxing authority following consolidation of school districts or annexation during the tax year. Subsection (a) of the revised law provides that annexation does not necessarily affect the receiving district's tax rate and negates the necessity of a tax election in the annexed territory. Subsection (b) provides that changes other than those addressed by the Tax Code provisions do not affect the taxes imposed for school purposes. The Tax Code provisions read:

Sec. 26.13. TAXING UNIT CONSOLIDATION DURING TAX YEAR. (a) If two or more taxing units consolidate into a single taxing unit after January 1, the governing body of the consolidated unit may elect to impose taxes for the current tax year either as if the unit as consolidated had existed on January 1 or as if the consolidation had not occurred.

(b) The chief appraiser shall prepare and deliver an appraisal roll for the unit or units in accordance with the election made by the governing body.

(c) Whatever the election, the assessor and collector for the unit, as consolidated shall assess and collect taxes on property that is taxable by the unit as consolidated.

Sec. 26.14. ANNEXATION OF PROPERTY DURING TAX YEAR. (a) Except as provided by Subsection (b) of this section, a taxing unit may not impose a tax on property annexed by the unit after January 1.

(b) If a taxing unit annexes territory during a tax year that was located in another taxing unit of like kind on January 1, each unit shall impose taxes on property located within its boundaries on the date the appraisal review board approves the appraisal roll for the district. The chief appraiser shall prepare and deliver an appraisal roll for each unit in accordance with the requirements of this subsection.

(c) For purposes of this section, "taxing units of like kind" are taxing units that are authorized by the laws by or pursuant to which they are created to perform essentially the same services.
Revised Law

Sec. 19.007. BOUNDARY CHANGES RESULTING IN APPRAISAL DISTRICT CHANGES. (a) This section applies if all or part of territory annexed to a school district is in an appraisal district in which the receiving district does not participate.

(b) If prior to the annexation the receiving district is located in two or more counties and has chosen to participate in a single appraisal district, the boundaries of that appraisal district extend to include the annexed territory. For the tax year in which the annexation is effective, the receiving district may impose taxes on the basis of:

1. the valuation arrived at by the appraisal district in which the territory is located before the annexation; or

2. the valuation arrived at by a reappraisal requested by the receiving district, and conducted by the appraisal district in which the receiving district participates, in the manner prescribed by Section 25.18(c), Tax Code.

(c) If prior to the annexation the receiving district is in a single county or participates in more than one appraisal district, the receiving district may choose to participate in a single appraisal district in the manner prescribed by Section 6.02, Tax Code, for a newly created district. For the tax year in which the annexation is effective, the receiving district shall impose taxes on the basis of the valuation arrived at by the appraisal district in which the territory is located before the annexation.

(New.)

Revisor's Note

Although Sec. 26.14, Tax Code, requires that following an annexation a school district impose taxes on the property on its rolls as of the date of the appraisal review board's approval of the roll, the section appears to contemplate only those situations in
which each district involved is in the same appraisal
district. Section 6.02, Tax Code, provides for
appraisal district boundaries, but does not
specifically address the situation in which annexed
territory is in an appraisal district in which the
receiving district does not participate. This section
is intended to fill that gap.

If the receiving school district is located in
more than one county and previously elected to use a
single appraisal district, that election is permanent
under Sec. 6.02, Tax Code, as long as the school
district has territory in the county of the appraisal
district it joined. Subsection (b) of the revised law
is consistent with that rule by automatically extending
the boundaries of the appraisal district to include the
annexed territory.

If the receiving school district is located in
more than one county, it had a limited time in which to
choose a single appraisal district. Similarly, a newly
created multi-county taxing unit has a limited time in
which to choose a single appraisal district.
Subsection (c) of the revised law extends that choice
to single-county districts that become county-line
districts by virtue of annexation and to county-line
districts that originally chose not to use a single
appraisal district but whose number of appraisal
districts would be increased by annexation.

Under Subsec. (b) of the revised law, the annexed
territory becomes part of the new appraisal district in
the same year in which the annexation is effective.
The revised law allows those districts either to use
the values assessed by the former appraisal district or
to pay for a reappraisal by the new district. Under
Subsec. (c) of the revised law, any change in the appraisal district for the annexed territory will not occur until the following tax year. The revised law therefore requires the receiving district to impose taxes on the basis of the value arrived at by the appraisal district in which the territory is located before the annexation.

The sections of the Tax Code cited in the revised law read:

Sec. 6.02. DISTRICT BOUNDARIES. (a) Except as otherwise provided by this section, the appraisal district's boundaries are the same as the county's boundaries.

(b) A taxing unit that has boundaries extending into two or more counties may choose to participate in only one of the appraisal districts. In that event, the boundaries of the district chosen extend outside the county to the extent of the unit's boundaries. If the unit chooses to participate in a district other than the district for the county in which the greatest number of its parcels of taxable real property are located, the choice must be approved by resolution of the board of directors of the district chosen.

(c) A taxing unit that chooses to participate in only one appraisal district as provided by Subsection (b) of this section must make the choice by an official action of its governing body in the manner required by law for official action by the body adopted at least 90 days before the first day of the tax year in which appraisal districts first begin appraising property for ad valorem tax purposes or, if the unit is newly created, at least 90 days before the first day of the next tax year after the year in which it is created. The choice made by a taxing unit is binding and may not be repealed or modified while the unit's boundaries extend into the county in which the appraisal district it joins is located. However, if the unit ceases to have territory in that county but still has territory in two or more counties, the unit may choose to participate in only one district in the manner prescribed by this subsection. The choice must be made at least 90 days before the first day of the next tax year.

[(d) Repealed by Acts 67th Leg., 1st C.S., Ch. 13, 1981.]

(e) All costs of operating an
appraisal district in territory outside the
county for which the appraisal district is
established are allocated to the taxing
unit that chooses to add that territory to
the district. If two or more taxing units
add the same territory to an appraisal
district, costs of operating the district
in that territory are allocated to the
units in the proportion the total dollar
amount of taxes each unit imposes in that
territory bears to the total dollar amount
of taxes all taxing units participating in
the appraisal district impose in that
territory.
Sec. 25.18. PERIODIC REAPPRaisals.
(a) Each appraisal office shall implement
a plan for periodic reappraisal of property
to update appraised values.

[Text of subsection effective until January 1, 1984]

(b) The plan shall provide for
review of all real property in the district
or county, as applicable, at least once
every five years.

[Text of subsection effective January 1, 1984]

(b) The plan shall provide for
reappraisal of all real property in the
district at least once every four years.
(c) A taxing unit by resolution
adopted by its governing body may require
the appraisal office to appraise all
property within the unit or to identify and
appraise newly annexed territory and new
improvements in the unit as of a date
specified in the resolution. On or before
the deadline requested by the taxing unit,
which deadline may not be less than 30 days
after the date the resolution is delivered
to the appraisal office, the chief
appraiser shall complete the appraisal and
deliver to the unit an estimate of the
total appraised value of property taxable
by the unit as of the date specified in
such resolution. The unit must pay the
appraisal district for the cost of making
the appraisal. The chief appraiser shall
provide sufficient personnel to make the
appraisals required by this subsection on
or before the deadline requested by the
taxing unit. An appraisal made pursuant to
this subsection may not be used by a taxing
unit as the basis for the imposition of
taxes.
Revised Law

Sec. 19.008. DISTRICT TRUSTEE APPROVAL OF BOUNDARY CHANGES REQUIRED IN CERTAIN COUNTIES. (a) Any change in the boundaries of an independent school district governed by an elective board of nine members and located in a county having a population of 100,000 or more is not effective unless approved by a majority of the board of trustees of the district. (Sec. 19.331.)

(b) An election may not be ordered for the purpose of determining whether or not territory shall be added to any independent school district having a gross average daily attendance of 27,400 for the preceding school year, unless, prior to the ordering of the election, the proposed addition of territory has been approved by a majority vote of the board of trustees of the independent school district to which the territory is proposed to be added. (Sec. 19.332.)

Source Law

Sec. 19.331. NINE-MEMBER BOARD; COUNTY OF 100,000 OR MORE. No change in the boundaries of an independent school district governed by an elective board of nine members and located in a county having a population of 100,000 or more according to the last preceding federal census may be made or effected, whether by election or by order of the county governing board or by any other method, until and unless the proposed change has been approved by a majority of the governing board of the independent school district.

Sec. 19.332. DISTRICT WITH 30,220 OR MORE SCHOLASTICS. No election shall be ordered for the purpose of determining whether or not territory shall be added to any independent school district having 30,220 or more scholastics according to the last official scholastic census unless prior to the ordering of the election, the proposed addition of territory has been approved by a majority vote of the board of trustees of the independent school district to which the territory is proposed to be added.

Revisor's Note

(1) The law codified as Sec. 19.331, Texas Education Code, was originally enacted in 1955 and its population bracket has never been changed. Using the
1950 census and the nine-member board requirement, the law was designed to apply only to Dallas Independent School District. Because of either population growth or changes in the number of trustees, the law now applies to Dallas ISD, Fort Worth ISD, and Houston ISD.

(2) The law codified as Sec. 19.332, Texas Education Code, was originally enacted in 1959 and its scholastic population bracket has never been changed. Under the scholastic census reported for 1957-1958, the law was designed to apply to the following independent school districts: Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Houston, and San Antonio. Under the last scholastic census reported (as it appears in the 1968-1969 Annual Statistical Report of the education agency), Amarillo ISD, Lubbock ISD, Pasadena ISD, Spring Branch ISD, and Ysleta ISD grew into the scholastic population bracket. The scholastic census has not been taken since that report, and the statutory authority for it was repealed in 1975. A possible interpretation of the current law is that the repeal of the scholastic census "froze" the bracket to include only those named school districts, since that census was the "last official scholastic census." That interpretation would probably result in the statute being a special law regulating the affairs of school districts, which is unconstitutional under Article III, Section 56, of the Texas Constitution.

To avoid the frozen bracket interpretation and retain the law to the extent possible, the revised law uses average daily attendance to create a bracket that included most of the districts to which the law applied on the basis of the 1968-1969 report. For the 1980-1981 school year, the bracket of 27,400 includes
all of the school districts previously mentioned other
than Amarillo ISD, which for 1980-1981 had an ADA of
23,312, compared with 27,267 for 1968-1969. Amarillo
ISD has, in essence, "fallen" from the bracket. In
addition, the bracket chosen includes Northside ISD in
Bexar County (30,857), North East ISD in Bexar County
(31,304), Pasadena ISD in Harris County (32,516),
Aldine ISD in Harris County (30,538), Richardson ISD in
Dallas County (34,062), and Arlington ISD in Tarrant
County (30,096). Those districts have "grown" into the
bracket.

(3) The revised law omits the reference in Sec.
19.331 to "the last preceding federal census" because
under Sec. 1.04 of the Code Construction Act (V.A.C.S.
Art. 5429b-2), any reference in an enacted code to
population is a reference to the last federal census.

Revised Law
Sec. 19.009. APPEALS. (a) A decision of a commissioners
court under this chapter may be appealed in the manner prescribed
by Section 11.13 of this code.

(b) If this chapter requires the agreement of or action by
two or more commissioners courts, and the commissioners courts fail
to agree or take action within a reasonable time set by rule of the
State Board of Education, a person aggrieved by the failure may
appeal to the commissioner of education for resolution of the
issue. (New.)

Revisor's Note
This section is added on the recommendation of
the advisory committee. Decisions under the present
Chapter 19 are appealable because, by virtue of
Subchapter G, Chapter 17, decisions of the
commissioners court are equivalent to decisions of the
county board of trustees or board of education.
Subsection (a) of the revised law clarifies that this
revision's transfer of duties to the commissioners
court does not affect the appealability of those
decisions.

Subsection (b) of the revised law provides a
method for resolving a dispute between counties in
situations in which more than one commissioners court
is involved in the boundary change and they cannot
agree on issues about which the law requires their
agreement.

[Sections 19.010-19.020 reserved for expansion]

SUBCHAPTER B. DETACHMENT; ANNEXATION

Revised Law
Sec. 19.021. ENLARGING DISTRICTS BY ANNEXING OTHER
DISTRICTS. (a) The commissioners court of any county may create
enlarged districts by annexing one or more common school districts
or one or more independent school districts having less than 250
students in membership on the last day of the preceding school year
to an independent school district having 150 or more students in
membership on the last day of the preceding school year.

(b) An enlarged district created under this section is an
independent school district.

(c) Title to property of each annexed district vests in the
enlarged district, and the enlarged district assumes and is liable
for the indebtedness of each annexed district. (Sec. 19.001.)
Source Law

Sec. 19.001. ENLARGED DISTRICTS. (a) The county school trustees or county boards of education, as the case may be, in any county in this State, shall have the authority to create enlarged districts by either of the following methods:

(1) By annexing one or more common school districts or one or more independent school districts having a scholastic population of less than 250 to a common school district having 400 or more scholastic population.

(2) By annexing one or more common school districts or one or more independent school districts having a scholastic population of less than 250 to an independent school district having 150 or more scholastic population.

(b) An enlarged district created by the method described in Subsection (a)(1) of this section shall be classified as a common school district; an enlarged district created by the method described in Subsection (a)(2) of this section shall be classified as an independent school district.

Revisor's Note

(1) The revised law places the power to annex districts in the commissioners court in conformity with Sec. 17.96(e), Texas Education Code. For consistency, the power is reposed in the commissioners court even in those counties that have retained county administration.

(2) The revised law omits the authority to annex a common district to another common school district because no county has two common school districts.

(3) The revised law replaces "scholastic population" with "membership" because, with repeal of the scholastic census in 1975, no accurate accounting of scholastic population exists. "Membership" is defined by Sec. 19.001 of this revision and is a figure routinely reported to the education agency in the superintendent's annual report.

(4) Subsection (c) of the revised law is new. As noted under Sec. 19.004 of this revision, the present law does not provide for assumption of
indebtedness or transfer of title in this situation.

Revised Law

Sec. 19.022. DETACHMENT AND ANNEXATION OF TERRITORY. (a) If petitioned under this section, the commissioners court may detach territory from a school district and annex the territory to a school district that is contiguous to the detached territory. If the territory is located in more than one county, or if one of the affected school districts is located in more than one county, the petition must be presented to the commissioners court of each county involved. Each commissioners court must conduct the hearing and enter the order required by this section for the annexation to be effective.

(b) The petition requesting detachment and annexation must:

(1) be signed by a majority of the registered voters residing in the territory to be detached from one district and added to the other; and

(2) give the metes and bounds of the territory to be detached from one district and added to the other.

(c) The proposed annexation must be approved by a majority of the board of trustees of the receiving district.

(d) Unless the petition is signed by a majority of the trustees of the district from which the territory is to be detached, territory may not be detached from a school district under this section if detachment would reduce that district's tax base by a ratio at least twice as large as the ratio by which it would reduce its membership. The first ratio is determined by dividing the assessed value of taxable property in the affected territory by the assessed value of all taxable property in the district, both figures according to the preceding year's tax rolls. The second ratio is determined by dividing the number of students residing in the affected territory by the number of students residing in the district as a whole, using membership on the last
day of the preceding school year and the students' places of residence as of that date.

(e) A school district may not be reduced to an area of less than nine square miles.

(f) Immediately following receipt of the petition and notice of the approval as required by this section, the commissioners court shall give notice of the contemplated change by publishing and posting a notice in the manner required for an election order under Section 19.003 of this code. In addition, the commissioners court shall give written notice to the trustees of each affected district. The notice must specify the place and date at which a hearing on the matter shall be held. At the hearing, affected persons, including the trustees of affected districts, are entitled to an opportunity to be heard.

(g) At the hearing, the commissioners court shall consider the social, economic, and educational effects of the proposed annexation. After the conclusion of the hearing, the commissioners court may adopt an order transferring the territory and redefining the boundaries of the districts affected by the transfer. The order shall be recorded in the minutes of the court.

(h) Title to all real property of the annexed district within the territory annexed vests in the receiving district, and the receiving district assumes and is liable for any portion of the annexed district's indebtedness that is allocated to the receiving district under Section 19.004 of this code. (Sec. 19.261.)

Source Law

Sec. 19.261. DETACHMENT AND ANNEXATION. (a) The county school trustees or county board of education, as the case may be, in each county of this state shall have the authority, when duly petitioned as herein provided and in compliance with the limitations of Subchapter K of this chapter, to detach from and annex to any school district territory contiguous to the common boundary line of the two districts.

(b) The petition requesting detachment and annexation must:

(1) be signed by a majority of the
qualified voters residing in the territory to be detached from one district and added to the other; and
   (2) give the metes and bounds of the territory to be detached from one district and added to the other.
   (c) The proposed annexation must be approved by a majority of the board of trustees of the district to which the annexation is to be made.
   (d) Unless the petition is signed by a majority of the trustees of the district from which the territory is to be detached, no school district territory may be detached where the ratio of the number of scholastics residing in the area to be detached to the total number of the scholastics residing in the district from which the territory is to be detached is less than one-half the ratio of the assessed valuation (based on preceding year valuations) in the territory to be detached to the total assessed valuation (based on the preceding year valuations) of the district from which the area is to be detached.
   (e) No school district may be reduced to an area of less than nine square miles.
   (f) Upon receipt of the petition and notice of the approval as required by this section, the county governing board shall notify the trustees of any other common school districts which may be affected by any contemplated change and specify the place and date at which a hearing on the matter shall be held and at which the trustees of any common school district to be affected shall be given an opportunity to be heard.
   (g) After the conclusion of the hearing, the county governing board may pass an order transferring the territory and redefining the boundaries of the district affected by the transfer. The order shall be recorded in the minutes of the county governing board.
   (h) Any outstanding indebtedness affected by a change in boundaries shall be adjusted by the county governing board as provided in Subchapter N of this chapter.

Revisor's Note

(1) On recommendation of the advisory committee, the revised law requires that notice of the contemplated change be given to any interested person rather than only to the trustees affected. Also on recommendation of the advisory committee, the revised law requires that the commissioners court consider the social, economic, and educational effects of the change. Present law establishes no standards for the commissioners court's consideration.

(2) Although the source law appears to be limited to school districts located wholly within one
county, the revised law provides for detachment and
annexations involving more than one county. The change
was recommended by the advisory committee.

(3) Subchapter K of the present Chapter 19,
referred to in Sec. 19.261(a), is codified as Sec.
19.008 of this revision. The cross-reference is
unnecessary and is omitted.

Revised Law

Sec. 19.023. ANNEXATION OF DISTRICTS IN LARGE COUNTIES. (a)
A school district located in a county with a population of 210,000
or more may be annexed to a contiguous independent school district
as provided by this section. For purposes of this section, a
school district is located in the county in which the greatest area
of the district lies.

(b) Annexation is initiated by a petition requesting an
election on the question. The petition must be presented to the
county judge and must:

(1) request annexation to a specified independent
school district;

(2) describe the district proposed to be annexed; and

(3) be signed by a majority of the board of trustees
of the district seeking annexation or by the required number of
registered voters.

(c) The proposed annexation must be approved by a majority
of the board of trustees of the independent school district to
which the petitioning district seeks to be annexed, and the board
shall give notice of approval to the commissioners court.

(d) Immediately following receipt of the petition and notice
of approval, the commissioners court shall conduct a hearing at
which it considers the social, economic, and educational effects of
the proposed annexation. If the proposed annexation appears to the
court to be in the best interests of the districts affected, the
commissioners court shall order an election to be held within the
petitioning district at its expense.

(e) If the receiving district is located in a county
different from that in which the petitioning district is located,
the petition and notice of receiving district approval must also be
presented to the county judge of the county in which the receiving
district is located. The commissioners court of that county shall
conduct a hearing under Subsection (d) of this section, except that
by the order entered the commissioners court shall agree or
disagree that the annexation is in the best interests of the
districts involved. The election on annexation may be conducted
only if the commissioners court of the county in which the
receiving district is located agrees that the annexation is in the
best interests of the districts.

(f) The ballot shall be printed to provide for voting for or
against the proposition: "Annexation of ______________________
School District to ______________________ School District."

(g) An election in the receiving district is not necessary
on the question of annexation.

(h) If the majority of votes are cast in favor of the
annexation, the commissioners court of the county in which the
petitioning district is located and the board of trustees of the
receiving district shall each enter an order on its minutes:

(1) declaring the petitioning district to be duly
annexed to the receiving district and subject to all the laws
governing the same; and

(2) redefining the boundaries of the receiving
district showing the annexation.

(i) A certified copy of the order of the commissioners court
shall be transmitted to the county clerk of each county involved
and shall be recorded in the county school district records.

(j) Title to all property of the annexed district vests in
the receiving district and the receiving district assumes and is
liable for the outstanding indebtedness of the annexed district. Any tax in effect in the receiving independent school district continues and applies to the entire independent district as constituted after annexation is completed.

(k) The receiving district continues as the same district and may operate in all respects as it did prior to the annexation except that the annexed territory shall become liable for all indebtedness, subject to all taxes, and be a part thereof for all purposes as though originally included in the independent district.

(Sec. 19.262.)

Source Law

Sec. 19.262. ANNEXATION OF DISTRICTS IN LARGER COUNTIES. (a) In every county in this state having a population of 210,000 or more according to the last preceding Federal census, any school district may be annexed to any contiguous independent school district as herein provided.

(b) There shall be presented to the county school trustees or county board of education, as the case may be, a petition which shall:

1. request annexation to a specified independent school district;

2. state the metes and bounds of the district proposed to be annexed; and

3. be signed by a majority of the board of trustees of the district seeking annexation or by not less than 20 qualified voters of such district.

(c) The proposed annexation must be approved by a majority of the board of trustees of the independent school district to which the petitioning district seeks to be annexed.

(d) Upon receipt of the petition and notice of approval, the county governing board, if the proposed annexation appears to it to be in the best interest of the districts affected, shall enter its order for an election to be held within the petitioning district at its expense.

(e) The following propositions shall be submitted at the election: "For the annexation of School District to School District" and the contrary thereof.

(f) No election in the receiving district shall be necessary on the question of annexation and the governing board of the receiving independent school district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools therein, and the payment of principal of and interest on all bonded indebtedness outstanding against, or
attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal and interest on such bonds in the manner permitted by the laws under which such bonds were voted.

(g) The county governing board and the board of trustees of the receiving district shall each enter an order on its minutes:

(1) declaring the petitioning district to be duly annexed to the receiving district and subject to all the laws governing the same; and

(2) redefine the boundaries of the receiving district showing the annexation.

(i) A certified copy of the order of the county governing board shall be transmitted to the county clerk of the county and recorded in the "Record of School Districts" of the county.

(i) Title to all property, real and personal, of the annexed district shall vest in the receiving district. The receiving district shall have complete authority over and management of the public schools in the territory annexed.

(j) The receiving district shall assume all outstanding indebtedness of the annexed district, bonded or otherwise. Any tax in effect in the receiving independent school district shall continue and become effective and apply to the entire independent district as constituted after annexation is completed.

(k) The independent receiving district shall continue as the same district and operate in all respects as it was prior to the annexation except that the annexed territory shall become liable for all indebtedness, subject to all taxes, and be a part thereof for all purposes as though originally included in the independent district.

Revisor's Note

(1) The population bracket of this section, which was originally enacted in 1947 and has not been changed, made this section initially apply only to Bexar, Dallas, Harris, and Tarrant counties. As a result of population changes, this section now applies to the following additional counties, effective with the census indicated: Cameron (1980), El Paso (1960), Hidalgo (1980), Jefferson (1960), Lubbock (1980),
Nueces (1960), and Travis (1960).

(2) The revised law changes the ballot proposition to a single proposition in order to conform this section with Art. 6.05(8), Vernon's Texas Election Code, which requires a single ballot proposition.

(3) The revised law omits the reference to "the last preceding federal census" because Sec. 1.04 of the Code Construction Act (Art. 5429b-2, Vernon's Texas Civil Statutes) provides that any reference to population in an enacted code is a reference to the last federal census.

(4) The revised law omits the requirement that the petition state the metes and bounds of the proposed district because it is a difficult requirement to meet and is of little practical use.

(5) The revised law requires the petition to be presented to the county judge in order to conform this section to the general rule provided by Sec. 19.003 of this code.

(6) On recommendation of the advisory committee, the revised law provides for annexations involving school districts located in contiguous counties.

Revised Law

Sec. 19.024. CREATION OF DISTRICT IN RESPONSE TO PETITION FOR DETACHMENT. (a) A new independent school district may be created by detaching territory from existing contiguous districts and uniting the territory into a new district.

(b) Creation of a new district by detachment is initiated by a petition presented to the commissioners court. The petition must:

(1) give the metes and bounds of the proposed new district;
(2) be signed by the required percentage of the registered voters residing in each territory to be detached from an existing district; and

(3) be addressed to the commissioners court of the county in which the territory of the proposed district is located or, if the territory is in more than one county, to the commissioners court of each county in which the territory is located.

(c) Immediately following receipt of a valid petition, the commissioners court shall order an election to be held by each school district from which territory is to be detached. The school districts shall order and conduct the election in the manner prescribed by Section 19.003 of this code. The school districts shall report the results of the election to the appropriate commissioners courts, which shall declare the results of the election. The new district is created only if the proposition receives a majority of the votes in each district, not including the territory to be detached, and a majority of the votes in the territory to be detached from each district.

(d) The ballot shall be printed to provide for voting for or against the proposition: "Creation of a new school district from territory that includes the following territory from the School District: _________." The ballot description of the territory to be detached must be sufficient to give general notice of the territory affected.

(e) A new district may not be created with an area of less than nine square miles, and a district may not be reduced to an area of less than nine square miles.

(f) Any district affected, either remaining or newly created, must have sufficient taxable valuations to support an efficient school system.

(g) If all the requirements of this section are met, the commissioners court shall enter an order creating the new school
district. If the new district embraces territory in two or more
counties, the order must be concurred in by the commissioners court
of each county concerned.

(h) At the time the order establishing the district is made,
the commissioners court in which the largest portion of the
district's territory is located shall appoint a board of trustees
for the new independent school district to serve until the next
regular election of trustees when a board of trustees shall be
elected in compliance with Chapter 23 of this code.

(i) Title to school district real property in the territory
detached vests in the new district, and the new district assumes
and is liable for any portion of outstanding indebtedness of the
district from which the territory was taken that is allocated to
the new district under Section 19.004 of this code.

(j) A new district, when created in compliance with this
section, has all the rights and privileges of other independent
school districts. (Sec. 19.263.)

Sec. 19.263. CREATION OF DISTRICTS IN RESPONSE
TO PETITION FOR DETACHMENT. (a) Subject to the
limitations contained in Subchapter K of this chapter,
and in conformity with the following provisions, new
school districts, either independent or common, may be
created by detaching territory from existing contiguous
districts and uniting such territory into a new
district.

(b) A petition requesting the creation of a new
school district shall:
(1) give the metes and bounds of the
proposed new district;
(2) be signed by a majority of the
qualified voters residing in each territory to be
detached from an existing district; and
(3) be addressed to the county governing
board of the county in which the territory of the
proposed district is located, or, if the territory is
in more than one county, to the county governing board
of the county in which the principal school of the new
district is to be located and in which the
administrative jurisdiction of the proposed district is
to be vested.
(c) The county governing board to which the
petition is addressed must give notice of the proposed
action in writing to the officers of the boards of
trustees of each district whose area would be affected
by the creation of the proposed district. The officers
of the boards of trustees of each district to be
affected must be given an opportunity to be heard by
the county governing board to whom the petition is
addressed.
(d) In the event the territory to be detached
from any district exceeds 10 percent of the total area
of the district, the proposed detachment must be
approved in writing by a majority of the board of
trustees of the district.
(e) No new district may be created within an
area of less than nine square miles; and no district
shall be reduced below an area of nine square miles.
(f) Any district affected, either remaining or
newly created, must have sufficient taxable valuations
to support an efficient school system.
(g) If all the requirements of this section are
met, the county governing board to which the petition
was addressed may enter its order creating the new
school district. If the new district embraces
territory in two or more counties, the orders affecting
its establishment shall be concurred in by the county
governing boards of each county concerned.
(h) At the time the order establishing the
district is made, the county governing board having
jurisdiction over the new district shall appoint a
board of trustees for the new common or independent
school district, as the case may be, to serve until the
next regular election of trustees when a board of
trustees shall be elected in compliance with the
provisions of Chapter 22 of this code governing common
school districts or the provisions of Chapter 23 of
this code governing independent school districts,
whichever is applicable.
(i) Any bonded indebtedness affected by the
establishment of a new district shall be adjusted by
the county school trustees or county board of
education, as the case may be, as provided in
Subchapter N of this chapter.
(j) Before any tax may be levied over the
territory of the new district for the liquidation of
its proportionate part of the outstanding bonded
indebtedness of any district from which the territory
of the new district was taken, the new district shall
vote to assume the indebtedness and to authorize the
levy of the necessary taxes.
(k) Such elections shall be held in accordance
with the provisions governing bond tax elections in a
common or independent school district, whichever is
applicable.
(l) A new district, when created in compliance
with the terms of this section, shall have all the
rights and privileges of an independent or a common
school district.

Revisor's Note

The subcommittee determined that creation of new
districts by detachment should be discouraged because
it affords the opportunity to avoid desegregation or to
significantly reduce the tax base of an existing
district. The subcommittee therefore recommended that
the creation of a new district by detachment result
only after an election in the affected districts and
the territory to be detached and that a majority of
those voting in each area favor the creation.

Revised Law

Sec. 19.025. DORMANT SCHOOL DISTRICTS. (a) If the
commissioner of education determines that a school district has
failed to operate a school for a full school year, the commissioner
shall report to each appropriate commissioners court that the
district is dormant.

(b) The commissioners court of a county shall by order annex
each dormant school district within the county with an adjoining
district or districts. If the dormant district is a county-line
district, the commissioners court of each county in which the
district is located shall annex the territory of the dormant
district that is within that county.

(c) The governing board of the district to which a dormant
school district is annexed continues to be the governing board for
the new district.

(d) The order of the commissioners court shall define by
legal boundary description the territory of the new district as
enlarged and shall be recorded in the minutes of the commissioners
court.

(e) Title to the real property of the dormant district vests
in the district to which the property is annexed. Each district to
which territory is annexed assumes and is liable for any portion of
the dormant district's indebtedness that is allocated to the
receiving district under Section 19.004 of this code. (Sec.
19.246.)
Sec. 19.246. DORMANT SCHOOL DISTRICTS. (a) The county school boards of all counties of the state shall consolidate by order of the board each dormant school district within the county with an adjoining district or districts.
(b) The term "dormant school district" means any school district that fails to operate a school in the district each school year.
(c) The governing board of the district with which a dormant school district is consolidated shall continue to be the governing board for the new district.
(d) In each case, the consolidation order of the county school board shall define by legal boundary description the territory of the new district as so enlarged and shall be recorded in the minutes of the county school board as provided by law.
(e) Elections shall be held when required by law in such consolidated districts for the assumption of outstanding bonds, if any, for the levying of taxes therefor, and for the levying of a local maintenance tax.
(f) If a county-line district is or becomes dormant, the consolidation provisions of this section shall apply to all counties affected to the extent of territory in each.

Revisor's Note
The revised law describes the action under this section as "annexation" rather than "consolidation."
"Annexation" is a better description of the action because the districts to which the territory is adjoined do not take on the characteristics of a consolidated district formed by voluntary action of two or more districts.

Sec. 19.026. TERRITORY NOT IN SCHOOL DISTRICT. (a) All real property must be included within the limits of a school district. At any time it is determined that there is territory located in a county but not within the described limits of a school district, the commissioners court shall annex the territory to an adjoining district or districts.
(b) The annexation order shall define by legal boundary
description the territory of the new district and shall be recorded
in the minutes of the commissioners court. (Sec. 19.247.)

Source Law

Sec. 19.247. TERRITORY NOT IN SCHOOL DISTRICT.
(a) All property subject to school district taxation
in the state must be included within the limits of a
school district and a proper and proportionate tax paid
thereon for school purposes. Therefore, at any time it
may be determined there is territory located in a
county but not within the described limits of a school
district, the county school board shall add the
territory to an adjoining district or districts.
(b) In each case, the order of consolidation,
shall define by legal boundary description the
territory of the new district and shall be recorded in
the minutes of the county school board as provided by
law.

Revisor's Note

The revised law describes action under this
section as "annexation" rather than "consolidation"
because the enlarged district resulting from the
assignment of territory does not take on the
characteristics of a consolidated district.

[Sections 19.027-19.050 reserved for expansion]

SUBCHAPTER C. CONSOLIDATION

Revised Law

Sec. 19.051. DISTRICTS THAT MAY CONSOLIDATE. (a) By the
procedure described in this subchapter, any of the following groups
of school districts may consolidate into a single school district:
(1) two or more contiguous independent school
districts;
(2) two or more contiguous common school districts; or
(3) one or more independent school districts and one
or more common school districts constituting as a whole one
continuous territory.

D68R286(3) SRC 51
(b) The consolidated district may include area in more than one county. (Sec. 19.231.)

Source Law

Sec. 19.231. DISTRICTS WHICH MAY CONSOLIDATE.
(a) Subject to the limitation of Subchapter K of this chapter, any of the following groups of school districts may, by the procedure described in this subchapter, consolidate into a single school district:
(1) two or more contiguous common or county-line common school districts;
(2) two or more contiguous independent or county-line independent school districts;
(3) one or more independent or county-line independent school districts and one or more common or county-line common school districts constituting as a whole one continuous territory;
(4) a rural high school district and one or more contiguous common or county-line common school districts; or
(5) one or more rural high school districts and one or more independent or county-line independent school districts, where all of the districts constitute as a whole one continuous territory.
(b) The combined districts may all be located wholly within a single county, or they may be located in adjoining counties; or the combined districts may be composed of one or more districts located wholly within one or more counties and one or more county line districts.

Revisor's Note

(1) Of the few remaining common school districts, only Crockett County Consolidated Common School District in Crockett County and Juno Common School District in Val Verde County are contiguous.
(2) Subchapter K of the present Chapter 19, referred to in Sec. 19.231(a), is codified in this revision as Sec. 19.008. The cross-reference is unnecessary and is omitted.

Revised Law

Sec. 19.052. PETITION. Consolidation is initiated by a petition requesting an election on the question. The petition must be signed by the required number of registered voters of each of
the districts proposed to be consolidated and must be presented to the county judge of each county in which the school districts are located. (Sec. 19.232.)

Source Law

Sec. 19.232. PETITION. A petition signed by 20 or a majority of the legally qualified voters of each of the several contiguous school districts proposed to be consolidated and praying for an election to authorize the consolidation shall be presented to the county judge of the county in which the school districts are located, or if one or more districts to be consolidated is a county-line district, to the county judge of the respective county or counties having jurisdiction thereof.

Revisor's Note

Section 19.003 of this revision replaces some of the petition requirements of the source law.

Revised Law

Sec. 19.053. ELECTION ORDER; NOTICE. (a) Each county judge receiving a valid petition shall:

(1) issue an order for an election to be held on the same day in each district included in the proposed consolidated district; and

(2) give notice of the election.

(b) The ballot in the election shall be printed to provide for voting for or against the proposition: "Consolidation of (name of school districts) into a single school district."

(Sec. 19.233.)

Source Law

Sec. 19.233. ELECTION ORDER; NOTICE. Upon the receipt of a petition fulfilling the qualifications of Section 19.232 of this code, each county judge shall:

(1) issue an order for an election to be held on the same day in each district included in the proposed consolidated district; and

(2) give notice of the date and purpose of the election by publication of the order in some
newspaper published in the county two times at least 20
days prior to the date on which the elections are to be
held and by posting a notice of the election in each of
the districts.

Revisor's Note

Section 19.003 of this revision replaces some of
the notice requirements of the source law. The ballot
proposition is new with the revised law; the present
Chapter 19 specifies a proposition in some cases but
not in others.

Revised Law

Sec. 19.054. CANVASS; RESULT. (a) The commissioners court
of each county shall canvass the returns of the election in its
county. The commissioners shall publish the results separately for
each district.

(b) If the votes cast in all districts show a majority in
each district voting in favor of the consolidation, the
commissioners court of each county shall declare the school
districts consolidated. (Sec. 19.234.)

Source Law

Sec. 19.234. CANVASS; RESULT. (a) The
commissioners court of the county (or the commissioners
court of the several counties, if more than one county
is involved) shall at the next meeting thereof, canvass
the returns of the election in each district voting and
publish the results separately for each district.

(b) If the votes cast in each and all districts
show a majority in each district voting separately in
favor of the consolidation, the commissioners court (or
the commissioners courts of the several counties, if
more than one county is involved) shall declare the
school districts consolidated. If less than a majority
of the votes cast in any one of the districts is in
favor of the consolidation, then another election
involving the same consolidation proposal may not be
held until at least one year has elapsed since the date
of the election.

D68R286(3) SRC 54
Sec. 19.055. CONSOLIDATION INVOLVING ONLY COMMON SCHOOL DISTRICTS. (a) If common school districts are consolidated with each other, regardless of whether or not one or more of the districts is a common county-line district, the consolidated district is a common school district and shall be named and governed as provided by this section.

(b) The trustees of each district participating in the consolidation shall, on notification and at the time and place specified by the commissioners court of each county involved, conduct a joint meeting to:

(1) select a name by which the new consolidated school district shall be known; and

(2) designate the county that shall have the supervision of the new consolidated school district.

(c) The ex officio county superintendent of the county having supervision of the new consolidated school district shall appoint a board of seven trustees for the new consolidated school district who shall serve until the next April election or until their successors qualify.

(d) The new common consolidated school district shall thereafter be governed and controlled as provided by Chapter 22 of this code. (Sec. 19.235.)

Sec. 19.235. CONSOLIDATION OF COMMON SCHOOL DISTRICTS. (a) When common school districts are consolidated together, regardless of whether or not one or more of the districts may be a common county-line district, the consolidated district shall be classed as a common school district and shall be named and governed as provided by this section.

(b) The trustees of each district participating in the consolidation shall, upon notification and at the time and place specified by the commissioners court or commissioners courts of the county or counties involved, meet in a joint meeting to:

(1) select a name by which the new consolidated school district shall be known; and

(2) designate the county which shall have
the supervision of the new consolidated school
district.
(c) The county governing board of the county
having supervision of the new consolidated school
district shall appoint a board of seven trustees for
the new consolidated school district who shall serve
until the next April election or until their successors
shall qualify.
(d) The new common consolidated school district
shall thereafter be governed and controlled as provided
in Chapter 22 of this code.

Revisor's Note

This section applies only to Crockett and Val
Verde counties, which contain the only two contiguous
common school districts. Both counties retain county
administration with the county judge serving as ex
officio county superintendent.

Revised Law

Sec. 19.056. CONSOLIDATION INVOLVING ONLY ONE INDEPENDENT
SCHOOL DISTRICT AND ONE OR MORE COMMON SCHOOL DISTRICTS. (a) If
only one independent school district is consolidated with one or
more common school districts, this section applies.
(b) The consolidated district shall bear the name of the
independent school district.
(c) Except as provided by Subsection (d) of this section,
the board of trustees of the independent school district shall
serve as the board of trustees of the consolidated district until
the next regular election of trustees, at which time the
consolidated district shall elect a board of seven trustees.
(d) If the membership in the independent school district on
the last day of the preceding school year is more than five times
that of the other district or districts consolidating with it, the
trustees of the independent school district shall continue to serve
for the terms for which they have been elected and only the
vacancies, as they occur, shall be filled from the consolidated
district.

(e) The powers, duties, and terms of office of the trustees are governed by Chapter 23 of this code. (Secs. 19.236, 19.237.)

Source Law

Sec. 19.236. CONSOLIDATION INVOLVING INDEPENDENT SCHOOL DISTRICT. When two or more independent school districts are consolidated together or when one or more independent school districts are consolidated with one or more independent school districts, the consolidated district shall be classed as an independent school district and shall be named and governed according to Section 19.237 or 19.238 of this code, whichever is applicable.

Sec. 19.237. CONSOLIDATION INVOLVING ONLY ONE INDEPENDENT SCHOOL DISTRICT. (a) If only one independent school district is consolidated with one or more common school districts, the provisions of this section apply.

(b) The consolidated district shall bear the name of the independent school district.

(c) The board of trustees of the independent school district shall serve as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of seven trustees, unless the scholastic population of the independent school district is in excess of five times that of the other district or districts consolidating with it, in which event the trustees of the independent school district shall continue to serve for the terms for which they have been elected and only the vacancies, as they occur, shall be filled from the consolidated district.

(d) The powers, duties, and terms of office of the trustees shall be in accordance with the general laws governing independent school districts as provided in Chapter 23 of this code.

Revised Law

Sec. 19.057. CONSOLIDATION INVOLVING TWO OR MORE INDEPENDENT SCHOOL DISTRICTS. (a) If two or more independent school districts are included in the consolidation, this section applies.

(b) The consolidated district shall bear the name as prescribed in the petition for consolidation and the name shall include "Consolidated Independent School District."

(c) Except as provided by Subsection (d) of this section, the board of trustees of the independent school district having the greatest membership on the last day of the school year preceding
the consolidation shall serve as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of seven trustees, at least two of whom shall be elected from the area of each former independent district included in the consolidation.

(d) If the membership on the last day of the school year preceding the consolidation in the district with the largest membership is more than five times that of the other district or districts consolidating with it, the trustees of the district with the largest membership shall continue to serve for the terms for which they have been elected and only the vacancies, as they occur, shall be filled from the consolidated district.

(e) The powers, duties, and terms of office of the trustees are governed by Chapter 23 of this code. (Sec. 19.238.)

Source Law

Sec. 19.238. CONSOLIDATION INVOLVING TWO OR MORE INDEPENDENT SCHOOL DISTRICTS. (a) If two or more independent school districts are included in the consolidation, the provisions of this section apply.

(b) The consolidated district shall bear the name as prescribed in the petition for consolidation and shall include "Consolidated Independent School District."

(c) The board of trustees of the independent school district having the greater or greatest number of scholastics at the time of consolidation shall serve as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of seven trustees, at least two of whom shall be elected from the area of each former independent district included in the consolidation, unless the scholastic population of the larger or largest independent school district is in excess of five times that of the other district or districts consolidating with it, in which event the trustees of the larger or largest district shall continue to serve for the terms for which they have been elected and only the vacancies, as they occur, shall be filled from the consolidated district.

(d) The powers, duties and terms of office of the trustees shall be in accordance with the general laws governing independent school districts as provided in Chapter 23 of this code.
Revised Law

Sec. 19.058. TITLE TO PROPERTY; ASSUMPTION OF DEBT. Title to all property of the consolidating districts vests in the consolidated district, and the consolidated district assumes and is liable for the outstanding indebtedness of the consolidating districts. (Sec. 19.243.)

Source Law

Sec. 19.243. ASSUMPTION OF DEBT. (a) If at the time of the proposed consolidation there are outstanding bonds of any district included in the proposed consolidation, an election shall be held to determine whether or not the consolidated district shall assume and pay off the outstanding bonds and levy a tax therefor.

(b) The election may be held after consolidation has been accomplished on the call of the trustees of the consolidated district as authorized in Subchapter O of this chapter.

(c) The election may be held on the same day upon which the election on the question of consolidation is held provided that separate notices, separate ballots, separate ballot boxes, and separate tally sheets are provided for the two separate elections.

(d) If at an election, either on the day of the consolidation election or on some future day, a majority of the voters vote to assume and pay off the bonded indebtedness of the district or districts consolidating, then the bonded indebtedness shall become valid and subsisting obligations of the consolidated district, and the proper officers thereof shall annually thereafter levy sufficient taxes to pay the interest thereon as it accrues and to create a sinking fund which, in addition to the sinking funds already accumulated in the original bonded district, will pay off and retire the outstanding bonds when they become due.

Revisor's Note

The revised law conforms the debt assumption provisions to that provided by Sec. 19.004 of this revision.
Revised Law

Sec. 19.059. DISSOLUTION OF CONSOLIDATED SCHOOL DISTRICT.

(a) Any consolidated school district may be dissolved by the same procedure provided for consolidation, except that it shall not be necessary to provide polling places in each of the former districts.

(b) If the district is dissolved, each of the former districts is restored as a separate district and classified as an independent school district.

(c) Title to property of the consolidated district that is allocated to each of the restored districts under Section 19.004 of this code vests in the restored districts, and each of the restored districts assumes and is liable for the indebtedness of the consolidated district as allocated under that section. (Sec. 19.244.)

Source Law

Sec. 19.244. DISSOLUTION OF CONSOLIDATED SCHOOL DISTRICTS. (a) Any consolidated school district may be dissolved and the districts included therein restored to their original status by the same procedure provided for consolidation, except that it shall not be necessary to provide polling places in each district.

(b) When dissolution is brought about by majority vote of the qualified voters of the consolidated district, each of the restored districts shall assume and be liable for its prorata part of the outstanding financial obligations of the consolidated district, each prorata part to be based on the relation that the total assessed valuation of all property in the original district bears to the total assessed valuation of property in the consolidated district.

(c) No election for the dissolution of a consolidated district shall be held until three years have elapsed after the date of the election at which the districts were consolidated.

Revisor's Note

(1) Recent state policy, as evidenced by Subchapter G, Chapter 17, Texas Education Code, favors independent school districts rather than common school districts. In keeping with that policy, revised law
provides that, on dissolution of a consolidated
district, the restored districts are classified as
independent school districts even if the districts were
common school districts prior to consolidation.
(2) Section 19.244(c) of the present Chapter 19
is omitted because consolidation elections are covered
by the general time limit of Sec. 19.002 of this
revision.

Revisor's Note
(End of Subchapter)

(1) The revised law omits Sec. 19.239, Texas
Education Code, because no rural high school district
is contiguous to a common school district; therefore,
no consolidation is possible. The omitted section
reads:

Sec. 19.239. CONSOLIDATION OF COMMON
AND RURAL HIGH SCHOOL DISTRICTS. (a) When
one or more common school districts are
consolidated with a rural high school
district, the consolidated district shall,
if there be no bonded indebtedness in any
district involved or if any bonded
indebtedness is adjusted as specified
below, take form of such rural high school
district and be governed by the board of
trustees of the rural high school district
if all parts had originally been included
in the rural high school district.
(b) In case of any outstanding
bonded indebtedness in any district
participating in the consolidation, an
election shall be held to determine whether
or not the common school district or
districts or the rural high school district
shall assume its or their pro rata share of
the indebtedness.
(c) The consolidation shall not
become effective until after the election
adjusting the bonded indebtedness. In case
the election fails to be carried, the
consolidation shall be held for naught and
such districts shall remain in their
original status.

(2) The revised law omits Sec. 19.245, Texas
Education Code, as impliedly repealed by Sec. 19.246
(codified in this revision as Sec. 19.025). Section
19.245, enacted in 1947, is a confusing method of "dissolving" a consolidated county-line school district that fails to operate a school. Poorly drafted, the section appears to attempt a method of withdrawing a school district from a consolidated district (the subject addressed by the law repealed with the enactment of Sec. 19.245, V.A.C.S. Art. 2518(b)).

Section 19.246, enacted in 1949 and previously codified as Sec. 16.80 of the Texas Education Code, requires that the territory of dormant districts (districts that fail to operate a school for one year) be annexed to adjacent districts and specifically applies to county-line school districts. Any county-line consolidated school district may be dissolved in the same manner as other districts under the revised law.

The omitted section reads:

Sec. 19.245. DISSOLUTION OF COUNTY-LINE CONSOLIDATED SCHOOL DISTRICTS. (a) A county-line consolidated school district may be dissolved as provided by this section whenever the consolidated school district fails to operate a public free school.

(b) A petition signed by 20 or a majority of the qualified voters of the county-line district shall be filed with the county judge of the county in which that portion of the district desiring to be dissolved is situated.

(c) Upon the filing of such a petition, the county judge shall call an election to be held at some designated place in the district.

(d) If a majority of the votes cast at the election favor dissolution, the boundaries of the original districts, before consolidation, shall be reapportioned by order of the county judge. Thereafter, the consolidated county-line school district shall cease to exist insofar as it shall relate to that portion of the district in which the election was held.

(e) Dissolution of the district under the terms of this section shall not operate to relieve any one of the original districts from assuming and bearing its prorata part of the total indebtedness of the consolidated county-line school.
district; and any indebtedness, bonded or
otherwise, shall be borne proportionately
by the original districts comprising the
county-line school district.

(3) Sections 19.240, 19.241, and 19.242 of the
present Chapter 19 are omitted from the revised law as
redundant. Each of the consolidations addressed by
those sections is covered by the provisions of the
revised law. The omitted sections read:

Sec. 19.240. CONSOLIDATION OF RURAL
AND INDEPENDENT DISTRICTS. When one or
more rural high school districts are
consolidated with one or more independent
school districts, the consolidation
district shall be classed as an independent
school district and shall be named and
governed according to Section 19.241 or
Section 19.242 of this code, whichever is
applicable.

Sec. 19.241. ONE INDEPENDENT
DISTRICT. (a) If only one independent
school district is involved in the
consolidation, the provisions of this
section apply.

(b) The consolidated district shall
bear the name of the independent school
district.

(c) The board of trustees of the
independent school district shall serve as
the board of trustees of the consolidated
district until the next regular election of
trustees, at which time the consolidated
district shall elect a board of seven
trustees, unless the scholastic population
of the independent school district is in
excess of five times that of the other
district or combined districts
consolidating with it, in which event the
trustees of the independent school district
shall continue to serve for the terms for
which they have been elected and only the
vacancies, as they occur, shall be filled
from the consolidated district.

(d) The powers, duties, and terms of
office of the trustees shall be in
accordance with the general laws governing
independent school districts as provided in
Chapter 23 of this code.

Sec. 19.242. TWO INDEPENDENT
DISTRICTS. (a) If two or more independent
school districts are included in the
consolidation, the provisions of this
section apply.

(b) The consolidated district shall
bear the name prescribed in the petitions
for consolidation and shall include
"Consolidated Independent School District."

(c) The board of trustees of the
independent school district having the
greater or greatest number of scholastics at the time of consolidation shall serve as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of seven trustees at least two of whom shall be elected from the area of each former independent school district included in the consolidation, unless the scholastic population of the larger or largest independent school district participating in the consolidation is in excess of five times that of the other district or combined districts consolidating with it, in which event the trustees of the larger or largest independent school district shall continue to serve until their terms expire and only the vacancies, as they occur, shall be filled from the consolidated district.

(d) The powers, duties, and terms of office of the trustees shall be in accordance with the provisions of Chapter 23 of this code.

[Sections 19.060-19.080 reserved for expansion]

SUBCHAPTER D. CREATION OF COUNTYWIDE INDEPENDENT SCHOOL DISTRICTS

Revised Law

Sec. 19.081. ELIGIBILITY. (a) A countywide independent school district may be created under this subchapter in any county in which:

(1) the total student membership of all districts on the last day of the school year preceding the filing of the petition is not more than 2,500; and

(2) not more than two school districts, excluding county-line districts, have operated schools within the two years preceding the filing of the petition.

(b) Any county-line district in the county is excepted from the proposed countywide district. (Secs. 19.061, 19.062 (part).)
Sec. 19.061. QUALIFICATIONS. A county-wide independent school district may be created, under the terms of this subchapter, in any county in the state meeting all of the following qualifications:

(1) The county must have a scholastic population of not more than 2,500.

(2) Not more than two school districts, either two common school districts or two independent school districts or one common school district and one independent school district, shall have conducted schools within the past two years.

[Sec. 19.062. The petition must ...]

(3) provide that in the event a county line district, either common or independent, shall exist in the county, such county line district shall be excepted from the proposed county-wide independent school district and the provisions hereof.

Revisor's Note

(1) The revised law states the exception of county-line districts as a substantive requirement rather than a statement in the petition. Requiring it as a petition statement is of little use and leaves the substantive requirement as implied rather than expressed.

(2) The revised law omits the authority of two common school districts to create a countywide independent school district because no county has two common school districts. Since "school district" includes both common and independent districts, the revised law preserves the authority of a common district to combine with an independent school district for purposes of creating a countywide independent school district.

Revised Law

Sec. 19.082. PETITION; BALLOT. (a) Creation of a countywide independent school district is initiated by a petition requesting an election on the question. The petition must be
signed by either a majority of the members of the board of trustees of the school districts within the county or by the required number of voters of each of the school districts within the county.

(b) The ballot for the election shall be printed to provide for voting for or against the proposition: "Creation of a countywide independent school district." (Sec. 19.062 (part).)

Source Law

Sec. 19.062. PETITION. Whenever it is desired that any county meeting the qualifications of Section 19.061 of this code be created into a single independent school district, there shall be presented to the county judge a petition which shall:

(1) be signed by either a majority of the members of the board of trustees of the common and/or independent school districts within the county or by 20 qualified voters or a majority of the qualified voters of each of the common and/or independent school districts within the county;

(2) state that the purpose is to create an independent school district embracing the entire county; and

Revised Law

Sec. 19.083. ORDER CREATING DISTRICT. If a majority of the votes are cast in favor of the creation of a countywide independent school district, the commissioners court shall by order:

(1) create the independent school district embracing the entire county and abolish all school districts participating in the election; and

(2) declare the boundaries of the countywide independent school district to be coextensive with the boundaries of the county or, if a county-line school district exists within the county, define the boundaries of the countywide independent school district by metes and bounds, excluding the county-line district. (Sec. 19.065.)
Sec. 19.065. ORDER CREATING DISTRICT. If it is found that a majority of the legally qualified voters voting in the election favor the creation of a county-wide independent school district, the commissioners court shall pass an order which shall:
(1) create the independent school district embracing the entire county and abolish all common and/or independent school districts participating in the election; and
(2) declare the boundaries of the county-wide independent school district to be co-extensive with the boundaries of the county or, in the event a county line school district exists within the county, define the boundaries of the county-wide independent school district by metes and bounds, excluding the county line district.

Sec. 19.084. APPOINTMENT OF INITIAL TRUSTEES. Not later than the 10th day following the day on which results of a favorable election are declared, the county judge shall provide for the organization of the district by appointing one trustee from each of the four commissioner precincts within the county and three trustees from the county at large. (Sec. 19.066.)

Sec. 19.066. APPOINTMENT OF INITIAL TRUSTEES.
(a) The trustees of an independent school district embracing an entire county shall be selected as provided in this section and Section 19.067 of this code.
(b) Immediately following the election at which it was determined to create a county-wide independent school district, the county judge shall provide for the organization of the district within 10 days thereafter by appointing seven trustees as follows: One trustee shall be appointed from each of the four commissioners precincts within the county, and three trustees shall be appointed from the county at large.

Sec. 19.085. ELECTION OF TRUSTEES. (a) The county judge shall call the first election of trustees for the first Saturday in April of the year following the election at which the countywide independent school district was created.
(b) Each qualified voter in the district is entitled to vote for one board member from the commissioner precinct in which the elector and the candidate reside and is entitled to vote for three candidates from the county at large.

(c) The commissioners court shall appoint election judges and assistants, cause ballots to be printed and distributed, canvass the votes, declare the results of the election, notify the persons elected, and call a meeting of the new board of trustees on a date not later than the 10th day after the day on which the results of the election are determined.

(d) The seven trustees first elected shall determine by lot which shall serve for a term of one year and which for a term of two years. Those drawing numbers 1, 2, and 3 shall serve for a term of one year, and those drawing numbers 4, 5, 6, and 7 shall serve for a term of two years.

(e) All subsequent elections of trustees shall be called by the board of trustees in the manner provided in this code for trustee elections in independent school districts. The elections shall be held on the first Saturday in April of each year at places in each commissioner precinct designated by the board of trustees. Each year, either three or four trustees, as the case may be, shall be elected for a term of two years. (Sec. 19.067.)

Source Law

Sec. 19.067. ELECTION OF TRUSTEES. (a) The first election for trustees shall be called by the county judge, shall be held on the first Saturday in April of the year following the election at which the county-wide independent school district was created and shall be conducted as provided by this section.

(b) Each elector in the county shall be permitted to vote for one board member from the commissioners precinct in which the elector and the candidate reside and shall be permitted to vote for three candidates from the county at large.

(c) The commissioners court shall appoint election judges and assistants, cause ballots to be printed and distributed, canvass the votes, declare the results of the election, notify the persons elected, and call a meeting of the new board of trustees on a date not more than 10 days after the results of the
election are determined.
   (d) The seven trustees first elected shall
determine by lot which shall serve for a term of one
year and which for a term of two years. Those drawing
numbers 1, 2, and 3 shall serve for a term of one year,
and those drawing numbers 4, 5, 6, and 7 shall serve
for a term of two years.
   (e) All subsequent elections of trustees shall
be called by the board of trustees in the manner
provided in this code for trustee elections in
independent school districts. The elections shall be
held on the first Saturday in April of each year at
places in each commissioners precinct designated by the
board of trustees. Each year, either three or four
trustees, as the case may be, shall be elected for a
term of two years.

Revised Law
Sec. 19.086. POWERS. The boards of trustees of independent
school districts established under this subchapter, whether
appointed or elected, have all the powers, rights, duties,
privileges, and qualifications granted in or required by general
law relating to independent school districts. (Sec. 19.068.)

Source Law
Sec. 19.068. TRUSTEES; POWERS, ETC. (a) The
boards of trustees of independent school districts
established under this subchapter, whether appointed or
elected, shall have all the powers, rights, duties,
privileges, and qualifications granted in or required
by the general provisions of this code relating to
independent school districts.
   (b) The boards of trustees shall have general
management and control of all schools situated or
established in the districts, including management of
the business affairs of the district and selection of
teachers.
   (c) The boards of trustees shall have all rights
and powers of taxation as provided for independent
school districts, including assessing property for
taxation, fixing tax rates, and issuing bonds.
   (d) The boards of trustees shall have any other
rights and powers now held and exercised by boards of
trustees of independent school districts as provided in
Chapter 23 of this code.

Reviser's Note
The revised law omits Subsecs. (b), (c), and (d)
of the source law because each power or duty addressed
by those subsections is included within the broad
provisions of Subsec. (a).

Revised Law

Sec. 19.087. TITLE TO PROPERTY; ASSUMPTION OF DEBT; TAXES.

(a) Title to all property of the component districts vests in the countywide district, and the countywide district assumes and is liable for the outstanding indebtedness of the component districts.

(b) The maintenance and bond taxes and assessed valuations in each of the several component districts existing at the time of the creation of the independent school district embracing the entire county continue as if authorized for the countywide district until equalized at an election held for that purpose. (Sec. 19.069.)

Source Law

Sec. 19.069. TAXES. (a) The maintenance and bond taxes and assessed valuations in each of the several component districts existing at the time of the creation of the independent school district embracing the entire county shall continue as authorized and approved until such time as an election shall have been held equalizing the maintenance tax and assuming the bonded indebtedness of the several component school districts making up the county-wide independent school district.

(b) Elections for the levying of taxes, assumption of debt, and issuance of bonds shall be called, held, and determined in accordance with the provisions governing such elections in independent school districts as provided in Subchapter O of this chapter or in Chapter 20 of this code.

(c) The laws governing the assessing and collecting of taxes, issuance of bonds (new or refunding), in independent school districts shall be applicable to independent school districts created under this subchapter.

Revisor's Note

Subsection (b) of the source law is omitted because its substance is covered by Sec. 19.004 of this revision. Subsection (c) is omitted as unnecessary.
Revisor's Note
(End of Subchapter)

(1) Sections 19.063 and 19.064 of the present Chapter 19 are omitted because their substance is covered by Sec. 19.003 of this revision. The omitted sections read:

Sec. 19.063. ELECTION ORDER; NOTICE.
Upon the presentation of a petition fulfilling the qualifications of Section 19.061 of this code, the county judge shall:

(1) order an election to be held throughout the county on a date not less than 21 days nor more than 30 days after the date of the filing of the petition; and

(2) cause notice of the election to be given by posting a substantial copy of the election order in a public place in each common and/or independent school district in the county not less than 15 days prior to the date fixed for the election.

Sec. 19.064. ELECTION. (a) The election shall be held at the usual voting place or places in each of the several districts in the county and shall be conducted under the general election laws of the state unless otherwise provided herein.

(b) The commissioners court shall at any regular or special session after the election canvass the return of the election and declare the result thereof.

(2) The revised law omits Sec. 19.070 of the present Chapter 19 because it was made unnecessary by the abolition of county administration under Subchapter G, Chapter 17. The omitted section reads:

Sec. 19.070. COUNTY GOVERNING BOARD NOT REQUIRED. No county school trustees or county boards of education shall be required in those counties which create county-wide independent school districts under the terms of this subchapter.

(3) Consistent with the state policy evidenced by Subchapter G, Chapter 17, Texas Education Code, and the trend away from common school districts, the revised law omits all of Subchapter B, Chapter 19, relating to creation of countywide common school
districts. Omission of the subchapter will not affect
the operations of any of the three existing countywide
common school districts (Crockett County Consolidated
Common School District in Crockett County, Guthrie
Common School District in King County, and Kenedy
Countywide Common School District in Kenedy County).
Creation of countywide independent school districts is
preserved in this subchapter of the revised law.
Common school districts may be involved in actions
under this subchapter, but the resulting district will
be classified as an independent school district. The
omitted subchapter reads:

SUBCHAPTER B. CREATION OF COUNTYWIDE COMMON
SCHOOL DISTRICTS

Sec. 19.031. QUALIFICATIONS. A
county-wide common school district may be
created, under the terms of this
subchapter, in any county in the State
meeting all of the following
qualifications:
(1) The county must have a
scholastic population of fewer than 600 as
shown by the last scholastic census on file
in the State Department of Education.
(2) The county must not
embrace the whole or any part of an
independent school district.
(3) There must be no
outstanding indebtedness against any common
school district in the county.
(4) The county must have an
assessed property valuation of less than
$6,000,000.

Sec. 19.032. PETITION FOR
ELECTION: ORDER. (a) The county judge,
when petitioned by 50 or a majority of the
legally qualified property taxing voters
of any county meeting the qualifications
specified in Section 19.031 of this code,
shall order an election to be held
throughout the county for the purpose of
determining whether a majority of the
legally qualified property taxing voters
residing in the county shall favor the
creation of a common school district
embracing the entire county.
(b) The petition and order for the
election shall state that the purpose is to
create a common school district embracing
the entire county.
(c) The order for the election must
be issued and public notice thereof given,
as in other school elections, for not less
than three weeks prior to the date at which
the election is to be held.

(d) It shall not be necessary for
either the petition or the order to state
the metes and bounds of the district
proposed to be created.

Sec. 19.033. ELECTION. The election
to determine whether to create a common
school district embracing the entire county
shall be held at the usual voting places in
each election precinct in the county and
shall be conducted under the general
election laws of this state.

Sec. 19.034. CANVASS: ORDER. (a)
The commissioners court shall, either at a
regular or a special session, canvass the
returns of the election and declare the
results.

(b) If it is found that a majority
of the legally qualified property-taxpaying
voters, voting at the election, are in
favor of the creation of a common school
district embracing the entire county, the
commissioners court shall enter an order
creating the common school district
embracing the entire county and abolishing
all common school districts existing prior
thereto.

(c) It shall not be necessary for
the order creating the district to state
the metes and bounds of the county.

Sec. 19.035. ELECTION OF TRUSTEES. (a)
When any common school district
embracing an entire county has been created
as provided in this subchapter, the county
judge shall immediately order an election
for the election of three trustees for the
school district.

(b) The county judge shall give
public notice of the election by posting
notices thereof at each voting place in the
county not less than 20 days before the
date at which the election is to be held.

(c) The county judge shall appoint
for the election for each precinct in the
county a presiding officer, who shall be
authorized to appoint two clerks to assist
him in the conduct of the election.

(d) Any person seeking election as
trustee of the county-wide district shall,
not less than 10 days before the election,
apply in writing to the county judge to
have his name placed on the ballot.

(e) The county judge shall order the
preparation of the necessary number of
ballots containing the names of each person
applying as a candidate for trustee.

(f) The election shall be held at
the usual voting places in each voting
precinct in the county and shall be
conducted in compliance with the general
laws relating to common school district
elections.

(g) The officers holding the
election shall make returns thereof to the county judge within five days after the election. The commissioners court at its next regular or special session shall canvass the returns and declare the results of the election.

Sec. 19.036. STATUS OF DISTRICT. Any county-wide common school district created under the terms of this subchapter shall be governed as other common school districts as provided in Chapter 22 of this code and shall have all the rights and privileges of other common school districts heretofore created or which may hereafter be created under the general laws of this State.

[Sections 19.088-19.100 reserved for expansion]

SUBCHAPTER E. SEPARATION FROM MUNICIPAL CONTROL

Revised Law

Sec. 19.101. ELIGIBILITY. Any municipal school district may be separated from municipal control so that the school corporation becomes an independent school district, without the dual character previously possessed by the school corporation and the city or town. (Sec. 19.166(a).)

Source Law

Sec. 19.166. SEPARATION FROM MUNICIPAL CONTROL AND CONVERSION TO INDEPENDENT SCHOOL DISTRICT. (a) Any municipal school district, established either under the terms of Section 19.161 of this code or under any other prior statutory authority, may be separated from municipal control so that the school corporation shall become and be an independent school district, without the dual character theretofore possessed by the school corporation and the city or town, under the provisions of this section.

Revised Law

Sec. 19.102. PETITION. Separation from municipal control is initiated by a petition signed by 10 percent of the registered voters of the municipal school district. The petition must be presented to the board of trustees of the municipal school district. The board of trustees of the municipal school district
shall certify the petition to the governing body of the city or town. (Sec. 19.166(b).)

**Source Law**

(b) A petition signed by 100 or more of the resident qualified voters of the municipal school district and/or city or town and praying for an election on the proposition of whether or not the public schools shall be divorced from municipal control shall be presented to the board of trustees of the municipal school district. The board of trustees of the municipal school district shall certify the petition to the governing body of the city or town.

**Revisor's Note**

On recommendation of the subcommittee, the revised law conforms the signature requirement to the general rule provided by Sec. 19.003 of this revision.

**Revised Law**

Sec. 19.103. HEARING. Immediately after receipt of the petition and certification, the governing body of the city or town shall fix a date not later than the 10th day after the date of receipt for the holding of a joint meeting of the governing body of the city or town and the board of trustees of the municipal school district. At the joint meeting, the governing body of the city or town and the board of trustees of the municipal school district, acting jointly as one body, the mayor or chairman of the governing body presiding, shall order an election. (Sec. 19.166(c).)

**Source Law**

(c) Upon receipt of the petition and certification, the governing body of the city or town shall fix a date not more than 10 days thereafter for the holding of a joint meeting of the governing body of the city or town and the board of trustees of the municipal school district. At the joint meeting, the governing body of the city or town and the board of trustees of the municipal school district, acting jointly as one body, the mayor or chairman of the governing body presiding, shall order an election as prayed for in the petition.
Sec. 19.104. ELECTION. (a) The election shall be held on an authorized election date, as provided by Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code), occurring not later than the 60th day after the day on which the petition is received. If an authorized date within that period does not allow sufficient time to comply with other legal requirements or if there is no authorized date within that period, the election shall be ordered for the next authorized date. Notice of the election shall be given in the manner prescribed by Section 19.003 of this code.

(b) The ballot shall be printed to provide for voting for or against the proposition: "The separation of the public schools from municipal control."

(c) Except as provided by this section, the election shall be conducted as nearly as possible in compliance with the law governing regular city elections in the town or city.

(d) The governing body of the city or town shall immediately canvass the returns of the election and deliver to the board of trustees of the municipal school district the certified results of the election and a certified copy of the record showing all proceedings relating to the election.

(e) If a majority of the votes are cast in favor of the separation of the public schools from municipal control and if the board of trustees of the school district finds that the election has been in all respects lawfully held and the returns duly and legally made to the governing body of the city or town, the board of trustees shall by resolution declare that the public schools of the municipal school district have been separated from municipal control and that the corporate name of the school district shall thereafter be "________ Independent School District,"
inserting the name of the city or town. (Secs. 19.166(d), (f)-(i).)
(d) The election shall be held not more than 30
days nor less than 10 days thereafter. At least 10
days notice of the election shall be given.

(f) The ballots for use at the election shall
have printed thereon the words: "For the separation
of the public schools from municipal control," and
"Against the separation of the public schools from
municipal control."

(g) In all respects not specifically covered
herein, the election shall be conducted as nearly as
possible in compliance with the law with reference to
regular city elections in the town or city.

(h) The governing body of the city or town shall
immediately canvass the returns of the election and
certify the results to the board of trustees of the
municipal school district, together with a certified
copy of the record showing all proceedings in respect
of the election.

(i) If a majority of the qualified voters,
voting at the election in the municipal school
district, vote in favor of the separation of the public
schools from municipal control and if the board of
trustees of the school district finds that the election
has been in all respect lawfully held and the returns
thereof duly and legally made to the governing body of
the city or town, the board of trustees shall by
resolution duly passed and entered of record, declare
that the public schools of the municipal school
district have been separated from municipal control and
that the corporate name of the school district shall
thereafter be "[Independent School
District]," inserting the name of the city or town.

Revisor's Note

(1) The revised law omits Subsec. (e) of the
source law because voting qualifications and residency
requirements are provided for in general election law.
The omitted provision reads:

(e) Every person who has attained
the age of 21 years and who has resided
within the limits of the municipal school
district for the six months next preceding
the date of election and who is a qualified
elector under the laws of this State shall
be entitled to vote.

(2) The revised law omits Subsec. (j) of the
source law because Sec. 19.002 of this revision
provides a general rule for permitted frequency of
actions. The omitted provision reads:

(j) If the proposition shall be
defeated at the election, then no election
for that purpose shall be ordered until
after the expiration of one year from the
date of the previous election.

(3) The revised law provides for a single ballot
proposition in order to conform this section with Art.
6.05(8), Vernon's Texas Election Code, which requires a
single ballot proposition.

(4) The revised law conforms the election date
to the general rule provided by Sec. 19.003 of this
revision.

Revised Law
Sec. 19.105. STATUS AFTER SEPARATION; PROPERTY AND DEBTS.
(a) The separated school district is an independent school
district with all the powers and duties conferred on independent
school districts by law.
(b) Title to property of the municipal school district vests
in the separated district, and the separated district assumes and
is liable for the outstanding indebtedness of the municipal school
district. (Secs. 19.166(k)(1), (k)(7), (k)(8).)

Source Law
(k) The separation of the schools from municipal
control shall produce the following results:
(1) The school district shall have all the
powers conferred upon independent school districts by
the constitution and laws of the state, including the
rights to assess, levy, and collect taxes and issue
bonds for school purposes.

(7) The title and rights to all property
owned, held, set apart or in any way dedicated to the
use of the public schools of the city or town, and/or
heretofore vested in such city or town and/or the
mayor, chairman of the commission, city council, city
commission or board of school trustees of the city or
town, prior to separation from municipal control, shall
be vested in the board of trustees of the independent
school district and shall be managed and controlled by
the board of trustees as provided in Chapter 23 of this
code.

(8) All bonds issued by and outstanding
against the city or town, as a school district, and all
obligations, contracts and indebtedness existing
against the city or town, as a school district, shall
become the obligations and debts of the independent
school district at the time of its separation from
municipal control. The independent school district, after separation from municipal control, shall be held
to have assumed the discharge of all such obligations,
contracts and indebtedness, and the same shall be
enforceable and collectible from, paid off and
discharged by, the independent school district; and it
shall not be necessary to call an election within and
for such district for the purpose of assuming such
bonds and other indebtedness.

Revisor's Note

The revised law omits Subsec. (k)(2) of the
source law because it provides the same rule as Sec.
19.006(b) of this revision. The omitted provision
reads:

(2) Any and all maintenance
and/or bond taxes previously voted,
authorized, and/or levied on the taxable
properties situated within the limits of
the municipal school district shall be
continued in full force by the independent
school district.

Revised Law

Sec. 19.106. TRUSTEES. (a) The board of trustees of the
separated school district shall consist of seven members.

(b) The members of the board of trustees of the municipal
school district shall continue as members of the board of trustees
of the independent school district until the terms for which they
have been elected or appointed, as the case may be, have expired or
until their successors have been elected and have qualified.

(c) If the board of trustees of the municipal school
district consisted of fewer than seven members, those serving shall
appoint a sufficient number of new trustees to bring the total
membership of the board to seven members, the appointees to serve
in accordance with the general law governing the election and
tenure of office of independent school district trustees.

(d) At the expiration of the terms of office of the existing
trustees, election of trustees shall be held in compliance with the
general law relating to the election of trustees in independent
school districts. (Secs. 19.166(k)(3)-(k)(6).)

Source Law

(3) The board of trustees of the
independent school district shall consist of seven
members.

(4) The members of the board of trustees
of the municipal school district shall continue as
members of the board of trustees of the independent
school district until the terms for which they have
been elected or appointed, as the case may be, shall
have expired or until their successors have been
elected or qualified.

(5) In the event the board of trustees of
the municipal school district consisted of fewer than
seven members, those serving shall appoint a sufficient
number of new trustees to bring the total membership of
the board to seven members, the appointees to serve in
accordance with the general law governing the election
and tenure of office of independent school district
trustees.

(6) At the expiration of the terms of
office of the existing trustees, election of trustees
shall be held in compliance with the general law
relating to the election of trustees in independent
school districts as provided in Chapter 23 of this
code.

Revisor's Note
(End of Subchapter)

Of the present Subchapter F, Chapter 19, the
revised law retains only Sec. 19.166, authorizing
separation from municipal control. The subcommittee
views municipal school districts as something of an
anachronism and of little modern purpose. Recent
tries at creation of a municipal district have shown
that significant erosion of another district's tax base
may result. The ease with which current law authorizes
extension of municipal school district boundaries also
affords opportunity for tax base erosion while serving
few significant other purposes.

Omission of the authority to create a municipal
district does not affect the operation of the few
existing municipal districts. To the extent that
boundary changes are desirable or necessary, other provisions of this revision provide for those changes in the same manner as for other districts.

For the same reasons, the revised law omits all of the present Subchapter J, Chapter 19, relating to municipal district boundary extensions.

The omitted provisions read:

SUBCHAPTER F. MUNICIPAL SCHOOL DISTRICTS--CREATION, BOUNDARY CHANGES, CONVERSION, ETC.

Sec. 19.161. CITY MAY ACQUIRE CONTROL OF SCHOOLS. (a) Any city or town in this state may acquire the exclusive control of the public free schools within its limits by a majority vote of the property taxing voters of the city or town voting at an election held for that purpose as herein provided. However, if the territory to be detached from any existing district by creation of a municipal school district exceeds 10 percent of the total area of the existing district, the proposed detachment must be approved by a majority vote of the residents of each district affected.

(b) A petition, signed by not less than 50 of the qualified electors of the city or town and requesting an election to determine whether the city or town shall acquire the exclusive control of the public free schools within its limits, shall be presented to the mayor.

(c) Upon receipt of the petition, the mayor shall order an election to be held at a date within 20 days thereafter. The election shall be conducted as other municipal elections; and if a majority of the votes cast favor the proposition, the city or town shall by ordinance duly passed and entered of record, assume control and management of the public free schools within its limits. Not more than one election shall be held in any one calendar year to determine the question.

Sec. 19.162. TRANSFER OF CONTROL FROM DISTRICT TO CITY. (a) Any independent school district including within its limits a city or town incorporated for municipal purposes under the laws of this State may transfer the control and management of the school district to the incorporated city or town as prescribed by this section.

(b) A petition, signed by as many as 50 or a majority of the resident qualified
voters of the independent school district
and requesting an election on the
proposition of whether the public free
schools of the district should be assumed
and controlled by the incorporated city or
town, shall be presented to the board of
trustees of the independent school
district.

(c) Upon receipt of the petition,
the board shall order an election to be
held at the usual voting places within the
district at a date within 20 days
thereafter.

(d) The election shall be ordered
and held in conformity with the law
governing tax and bond elections in
independent school districts, as provided
in Section 20.04 of this code, except that
the qualified electors need not be property
taxpayers but need only qualify to vote
under the laws of this State regulating
general elections.

(e) The ballot for use at the
election shall have printed thereon the
words: "For assuming control of the public
free school of
Independent School District by the city of

assumining control of the public free school
of Independent School
District by the city of

(f) If a majority of the qualified
voters voting at the election vote in favor
of the proposition, the board of trustees
of the independent school district shall
approve the results of the election to the
governing authority of the incorporated
city or town, together with a certified
copy of the record showing all the
proceedings had in the incorporation of the
independent school district and all
boundary extensions thereto, if any, and a
well-defined map accurately showing the
territory described in the record.

(g) If the governing authority of
the city or town finds that the election
has been in all respects lawfully held and
the returns thereof duly and legally made,
then it shall, by ordinance duly passed and
entered of record, assume control and
management of the public free schools
within its limits and perform such other
duties as may be required of it by this
code.

(h) If the boundaries of the
independent school district do not coincide
with the boundaries of the incorporated
city or town, the city governing body shall
on the same day pass an ordinance extending
its corporate line for school purposes only
so that the same shall coincide with and
embrace the same territory as the
independent school district.

(i) If the independent school
district shall have an outstanding bonded indebtedness, the incorporated city or town shall become liable and bound for the payment of such indebtedness, and the governing body of the city or town shall levy and cause to be assessed and collected, upon all property subject to taxation within the limits of the incorporated city or town or within the limits of the corporation as extended for school purposes only, taxes to pay interest on such bonds and to provide a sinking fund sufficient to redeem the same at maturity. Such tax shall thereafter be annually levied and collected so long as the bonds, or any of them, are outstanding and unpaid.

(j) If the independent school district had previously authorized a maintenance tax, the assumption of the control and management of the schools of the district shall not abrogate or affect such tax, and the maintenance tax shall thereafter be annually levied, assessed, and collected by the proper authorities of the incorporated city or town until increased or changed by the qualified voters in conformity with the provisions and requirements of Chapter 20 of this code.

(k) The trustees of the independent school district serving at the time of the assumption of the control of the schools of the district by the incorporated city or town shall continue to serve until the expiration of their terms of office; subsequent trustees shall continue to be elected in compliance with the general laws relative to the election of trustees of independent school districts as provided in Chapter 23 of this code.

Sec. 19.163. STATUS OF DISTRICT. Municipal school districts, established under either Section 19.161 or Section 19.162 of this code shall be classified as independent school districts and shall operate and be governed according to the general laws relative to independent school districts, as provided in Chapter 23 of this code, except insofar as such laws are modified by the specific provisions relative to municipal school districts as contained in Chapter 24 of this code.

Sec. 19.164. EXTENSION OF BOUNDARIES. (a) Any city or town which has assumed control of its schools and become a municipal school district under the terms of Section 19.161 of this code or under prior statutory authority may extend its corporation lines for school purposes only under the provisions of this section.

(b) A petition signed by a majority of the resident qualified voters of the territory seeking to be included in the municipal school district shall be presented to the board of trustees of the
municipal school district.

(c) If the extension of boundaries
is recommended by a majority vote of the
board of trustees of the municipal school
district, the governing body of the city
may, by ordinance and on the conditions
prescribed by this section, extend its
boundaries for school purposes only.

(d) The proposed change in
boundaries shall not deprive the scholastic
children of the remaining part of any
common or independent school district which
may be affected by the proposed change of
the opportunity of attending school.

(e) The added territory shall bear
its pro rata part according to taxable
values of any obligation owed by the
municipal school district, but shall not
bear any part of any other debt owed or
contracted by the town or city. The
property of the added territory shall bear
its pro rata part of all school taxes but
of no other taxes. The added territory
shall not affect the city's debts or
business relations in any manner whatsoever
except for school purposes.

(f) The officers whose duty it is to
assess and collect school taxes within the
city limits shall also assess and collect
school taxes within the territory added for
school purposes only.

(g) When hereafter an entire
territory of a contiguous district or
districts is added for school purposes
only, under the provisions of this section,
the extended city control district shall be
regarded as eligible for incentive aid to
the extent and under the conditions
prescribed in Subchapter G, Chapter 23, of
this code.

Sec. 19.165. DISANNEXATION OF
TERRITORY. (a) Any territory added to a
municipal school district for school
purposes only and outside the municipal
limits of the city or town may be
disannexed under the terms and conditions
of this section.

(b) A petition signed by a majority
of the persons owning property in the
territory proposed to be disannexed shall
be presented to the board of trustees of
the municipal school district.

(c) If the board of trustees
consents to the disannexation, the
governing body of the city or town may by
ordinance disannex the territory, in which
event:

(1) The governing body of the
city or town shall notify the county school
trustees or county board of education of
the county in which the disannexed
territory is situated by sending to the
commissioners court a copy of the
disannexation ordinance.

(2) The liability of the
disannexed territory for any obligations of
the municipal school district shall be
adjusted in the manner provided in
Subchapter N of this chapter.

(3) The disannexed territory
shall ipso facto immediately become a part
of the adjoining school district other than
that from which it has been disannexed, or
if the disannexed territory adjoins more
than one other district, the disannexed
territory shall become a part of the
adjoining district designated to receive
the territory by the county school trustees
or county board of education.

Sec. 19.167. SEPARATION FROM
MUNICIPAL CONTROL AND CONVERSION TO COMMON
SCHOOL DISTRICT. (a) Any municipal school
district, established either under the
terms of Section 19.161 of this code or
under any other prior statutory authority,
may be separated from municipal control and
become a common school district, without
the dual character theretofore possessed by
the school corporation of the city or town,
under the provisions of this section.

(b) A petition signed by 100 or more
of the resident qualified voters of the
municipal school district and praying for
an election on the proposition of whether
or not the public schools shall have
divorced from municipal control, shall be
presented to the board of trustees of the
municipal school district. The board of
trustees of the municipal school district
shall certify the petition to the governing
body of the city or town.

(c) Upon receipt of the petition and
certification, the governing body of the
city or town shall fix a date not more than
10 days thereafter for the holding of a
joint meeting of the governing body of the
city or town and the board of trustees of
the municipal school district. At the
joint meeting, the governing body of the
city or town and the board of trustees of
the municipal school district, acting
jointly as one body, the mayor or chairman
of the governing body presiding, shall
order an election as prayed for in the
petition.

(d) The election shall be held not
more than 30 days nor less than 10 days
thereafter. At least 10 days notice of the
election shall be given.

(e) Every person who has attained
the age of 21 years and who has resided
within the limits of the municipal school
district for six months next preceding the
date of election, and who is a qualified
elector under the laws of this State shall
be entitled to vote.

(f) The ballots for use at the
election shall have printed thereon the
words: "For the separation of the public
schools from municipal control and
converting same into a common school
district," and "Against the separation of
the public schools from municipal control
and converting same into a common school
district."

(g) In all respects not specifically
covered herein, the election shall be
conducted as nearly as possible in
compliance with the law with reference to
regular city elections in the town or city.

(h) The governing body of the city
or town shall immediately canvass the
returns of the election and certify the
results to the board of trustees of the
municipal school district, together with a
certified copy of the record showing all
proceedings in respect of the election.

(i) If a majority of the qualified
voters, voting at the election in the
municipal school district, vote in favor of
the separation of the public school from
municipal control and in favor of creating
a common school district therefor and if
the board of trustees of the municipal
school district finds that the election has
been in all respects lawfully held and the
returns thereof duly and legally made to
the governing body of the city or town,
then it shall by resolution duly passed and
entered of record, declare that the public
schools of the municipal school district
have been separated from municipal control,
and that the name of the school district
shall there be "Common School District,"
inserting the name of the city or town.

(j) If the proposition shall be
defeated at the election, then no election
for that purpose shall be ordered until
after the expiration of one year from the
date of the previous election.

(k) The separation of the schools
from municipal control shall produce the
following results:

1. The members of the board
   of trustees of the municipal school
district shall continue to serve as the
board of trustees of the common school
district until a special election can be
held for choosing their successors and
until such successors have been duly
elected and qualified.

2. The commissioners court of
the county, pursuant to its duties in
connection with common school districts,
shall order an election for the purpose of
naming a board of trustees of the school
district as provided in Section 22.00 of
this code.

3. The elected trustees of
the common school district shall conduct
the affairs of the district as provided in
Chapter 22 of this code.

4. The title and rights to
all property owned, held, set apart or in
any way dedicated to the use of the public
schools of the city or town, and/or
heretofore vested in the city or town
and/or the mayor, chairman of the
commission, city council, city commission,
or board of school trustees of the city or
town prior to separation shall be vested in
the board of trustees of the common school
district.

(5) All bonds issued by and
outstanding against the city or town as a
municipal school district, and all
obligations, contracts, and indebtedness
existing against the city or town as a
municipal school district shall become the
obligations and debts of the school
district at the time of its separation from
municipal control, and the same shall be
enforceable and collectible from, paid off
and discharged by the common school
district as if originally created by it as
a common school district; and it shall not
be necessary to call an election within and
for such district for the purpose of
assuming such bonds and other indebtedness.

SUBCHAPTER J. EXTENSION OF MUNICIPAL BOUNDARIES

Sec. 19.301. EXTENSION OF MUNICIPAL
BOUNDARIES: COUNTIES OF LESS THAN 165,000.
(a) In any county with a total population
of fewer than 165,000 according to the last
preceding federal census, whenever the
limits of any incorporated city or town
constituting an independent school district
are so extended or enlarged as to embrace
the whole or any part of any school
district, independent or common, that
portion so embraced within the corporate
limits of the city or town shall, unless
specifically determined otherwise as
provided in Subsection (c) of this section,
amatically become a part of the
independent school district constituted by
the incorporated city or town.

(b) If within a portion of a
district so embraced there should be
situated any real property belonging to the
partially embraced district, the city or
town may acquire the property upon such
terms as may be mutually agreed upon
between the governing body of such city or
town and the authorities of the district.

(c) If it is determined by majority
vote of those voting at an election held
within the city or town that the territory
or any portion thereof to be embraced
within the corporate limits shall not
thereby become a part of the independent
school district constituted by the city or
town but shall be taken into the city
limits for municipal purposes only, the
embraced territory shall continue to be
included within the school district or
districts in which it had previously been
included as though the city limits had not
been extended.

(d) When the corporate limits of any
city or town are extended to include
therein the whole or any part of any school
district having an outstanding bonded
indebtedness and the extension was not
limited to municipal purposes only, the
city or town shall become liable and bound
for the payment of such proportion of the
bonded indebtedness of the district as the
assessed value of the included portion
bears to the entire assessed value of the
district from which it was taken. The
assessed values of the district so included
shall be those shown upon the last
preceding tax assessment roll after the
district is so included. The incorporated
city or town shall pay either directly or
through the officers of the district the
proportion of the interest and principal of
the bonded indebtedness for which it is
liable.

Sec. 19.302. COUNTIES OF 165,000 OR
MORE. (a) In any county with a total
population of 165,000 or more according to
the last preceding census, whenever the
limits of any incorporated city or town are
extended or enlarged to include additional
territory or whenever any territory is
annexed to any incorporated city or town,
the extension or enlargement of the limits
of the incorporated city or town shall be
for municipal purposes only and shall not
automatically bring about any change in any
existing school district or districts
situated in the annexed area.

(b) After the territory has been
included in or annexed to the incorporated
city or town, the county governing board of
the county or counties in which the
districts are situated may, with the
approval specified in Subsection (c) of
this section, annex the territory to any
contiguous school district as specified in
Section 19.261 of this code.

(c) Any subdivision of or annexation
to any existing school district under the
terms of this section must be approved by a
majority of the school trustees of each
school district affected.

[Sections 19.107-19.120 reserved for expansion]
SUBCHAPTER F. CONVERSION FROM COMMON SCHOOL DISTRICT TO
INDEPENDENT SCHOOL DISTRICT

Revised Law
Sec. 19.121. ELIGIBILITY. Any common school district may
incorporate for school purposes in accordance with this chapter and
become an independent school district. (Sec. 19.201.)

Source Law
Sec. 19.201. QUALIFICATIONS. Any common school
district may, by the method herein provided, form an
incorporation for free school purposes only and become
an independent school district.

Revised Law
Sec. 19.122. PETITION. Conversion from a common school
district to an independent school district is initiated by a
petition requesting an election on the question. The petition
must:
(1) describe the common school district; and
(2) recite the name by which the independent school
district should be known. (Sec. 19.202.)

Source Law
Sec. 19.202. PETITION. Whenever it is desired
that any common school district possessing the
qualifications set out in Section 19.201 of this code
become incorporated, there shall be presented to the
county judge a petition which shall:
(1) be signed by 20 or a majority of the
resident qualified voters of the common school
district;
(2) contain a definite description by
metes and bounds of the common school district proposed
to be incorporated;
(3) recite the name by which the
independent school district should be known;
(4) pray for an election to determine
whether the common school district shall be
incorporated as an independent school district; and
(5) pray for the election of seven
trustees.
Revisor's Note

The revised law omits the requirements that the petition have a metes and bounds description and request the election of seven trustees. Both requirements are of little use and invite error. The number of signatures required is governed by Sec. 19.003 of this revision.

Revised Law

Sec. 19.123. ELECTION. (a) At the same time the county judge orders the incorporation election, he shall order an election to be held for the selection of a board of seven trustees. Notice of the election for trustees shall be given at the same time and in the same manner as provided for the giving of notice for the incorporation election. The election of trustees shall be held at the same time, under the same rules, and by the same officers as the incorporation election.

(b) The ballot shall be printed to provide for voting for or against the proposition: "Conversion of ______________________ Common School District into the ______________________ Independent School District." (Sec. 19.203.)

Source Law

Sec. 19.203. ELECTION ORDER; NOTICE. (a) If the county judge finds that the petition fulfills the requirements of Section 19.202 of this code and that the facts contained therein are true, he shall:

(1) enter his order upon the minutes of the commissioners court granting the petition;

(2) specify in the order the place or places and a date, within 20 days of the order, at which the election shall be held;

(3) appoint in the order a presiding officer for the place of each of the places of election;

(4) describe in the order the proposition to be submitted together with a definite description by metes and bounds of the common school district proposed to be incorporated;

(5) issue a notice of the election stating
in substance the contents of the election order and the
time and place or places of the election; and
(6) cause the sheriff not less than 10
days prior to the date set for the election to post a
copy of the notice of election in three different
public places within the boundaries of the common
school district as described in the election order.
(b) Whenever the county judge shall enter his
order for an incorporation election, as provided above,
he shall at the same time order an election to be held
for the selection of a board of trustees to consist of
seven members. Notice of the election for trustees
shall be given the same time and in the same manner as
provided for the giving of notice for the incorporation
election. The election of trustees shall be held at
the same time, under the same rules, and by the same
officers as the incorporation election.

Revisor's Note
(1) The revised law omits the provisions
relating to ordering the election and giving notice
because that is governed by Sec. 19.003 of this
revision.
(2) The revised law adds the ballot proposition
to conform this section to other provisions of Chapter
19 that provide for elections on propositions. The
statutory proposition ensures consistency throughout
the state in elections conducted for this purpose.

Revised Law
Sec. 19.124. INCORPORATION; TRUSTEES; ORGANIZATION. (a) If
a majority of the votes are cast in favor of incorporation of the
district, the county judge shall enter in the minutes of the
commissioners court an order incorporating the school district and
the county clerk shall record a certified copy of the order in the
appropriate county records. The school district is thereafter
incorporated for free school purposes only and is vested with all
the rights, powers, and privileges conferred and imposed by law on
independent school districts.
(b) The county judge shall issue a certificate of election
to each of the seven candidates for the office of trustee who
received the greatest number of votes cast. On the issuance of the
certificate of election and the taking of the official oath of
office, the trustees are qualified and shall immediately undertake
their duties.

(c) The trustees elected at the incorporation election shall
organize as provided in Chapter 23 of this code, but the district
shall conduct a regular trustee election on the first Saturday of
the next April. The trustees elected at the incorporation election
shall serve only until their respective successors have been
elected and qualified.

(d) On notice to the commissioner of education, the
independent school district is entitled to receive its share of the
available school fund. No incorporated town or village included
within the boundaries of the independent school district may
thereafter acquire any right to take or assume control of the
public free schools within its limits. (Sec. 19.205.)

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Sec. 19.205. INCORPORATION; TRUSTEES;
ORGANIZATION. (a) If a majority vote favors the
incorporation of the district, the county judge shall
enter upon the minutes of the commissioners court an
order incorporating the school district and cause the
county clerk to record a certified copy of the order in
the deed records of the county. The independent school
district shall thereafter be regarded as duly
incorporated for free school purposes only and shall be
vested with all the rights, powers, and privileges
conferred and imposed upon independent school districts
as provided in Chapter 23 of this Code.

(b) The county judge shall issue his certificate
of election to each of the seven candidates for the
office of trustee who received the greatest number of
votes cast. Upon the issuance of the certificate of
election and the taking by the trustees of the official
oath of office the trustees shall be deemed to have
qualified and shall immediately enter upon the
discharge of their duties.

(c) The trustees elected at the incorporation
election shall organize as provided in Chapter 23 of
this Code but shall hold office only until the first
Saturday in April next succeeding and until their
respective successors have been duly elected and
qualified.

(d) Upon notice to the commissioner of
education, the independent school district shall be
titled to receive the share of the available school
fund to which the district is entitled. No incorporated town or village included within the boundaries of the independent school district may thereafter acquire any right to take or assume control of the public free schools within its limits.

Revised Law

Sec. 19.125. TITLE TO PROPERTY; ASSUMPTION OF DEBT. Title to all property of the common school district vests in the independent school district, and the independent school district assumes and is liable for the outstanding indebtedness of the common school district. (New.)

Revised Law

Sec. 19.126. COUNTY-LINE DISTRICTS. If the district to be converted is a county-line district, the petition shall be presented in and the election conducted by the county in which the greatest area of the district lies. All other counties in which the district lies shall cooperate with the county conducting the election. (Sec. 19.105.)

Source Law

Sec. 19.105. CONVERSION OF COUNTY-LINE RURAL HIGH SCHOOL DISTRICTS INTO INDEPENDENT SCHOOL DISTRICTS. (a) Any county-line rural high school district in which there is maintained an accredited school system of 12 grades, including a high school offering 16 or more credits, may be converted into an independent school district as prescribed by this section.

(b) A petition signed by 20 or a majority of the qualified property taxing voters residing in the district and praying for an election to determine whether the rural high school district shall be incorporated for free school purposes only shall be presented to the county judge of the county in which the greater or greatest area of the district lies.

(c) Upon receipt of the petition, the county judge shall issue an order calling for an election to be held throughout the district not less than 20 nor more than 30 days from the date of filing the petition, for the purpose of converting the rural high school district into an independent school district for school purposes.

(d) After the election is held, the commissioners court of the county in which the greater or greatest area of the district lies shall canvass the
returns and declare the result of the election.

(e) If a majority of the votes cast favor the change from a rural high school district into an independent school district, the commissioners court shall:

1. enter its order incorporating the independent school district; and
2. cause a certified copy of the order to be recorded by the county clerk in the county record of the counties having territory within the district.

(f) An independent school district created under the provisions of this section shall be regarded as duly incorporated for free school purposes only and shall be vested with all the rights, powers, and privileges conferred and imposed upon independent school districts as provided in Chapter 23 of this code.

(g) Whenever any independent school district is incorporated under this section, the members of the board of trustees of the rural high school district shall maintain their status as trustees of the newly incorporated independent school district and shall continue to serve until their respective terms of office expire.

(h) The titles and rights to all property owned, held, set apart, or in any way dedicated to the use of the public schools of the elementary school districts comprising the rural high school district for school purposes only, shall be vested in the board of trustees of the independent school district, after incorporated under this section, and shall be managed and controlled by the board of trustees, as is now or may hereafter be provided by law.

(i) All bonds issued by and outstanding against the rural high school district, as a school district, and all obligations, contracts, and indebtedness existing against the rural high school district, shall become the obligations and debts of the independent school district at the time of its incorporation.

Revisor's Note

Except in the case of rural high school districts, the present Chapter 19 does not specifically address conversion of a county-line common school district into an independent school district. The only remaining rural high school district, Blanket Rural High School District, is a county-line district with territory located in both Brown and Comanche counties. Of the remaining common school districts, Doss Consolidated Common School District in Mason and Gillespie counties and Three Way Common School District in Erath and Somervell counties are county-line
districts. The revised law adopts the rule of Sec. 19.105 that the election is conducted by the county in which the greatest area lies and adds the rule that the adjoining counties shall cooperate to the extent necessary. The only substantial difference in the method of conversion between the general provisions of the revised law and Sec. 19.105 of the present Chapter 19 is when the first election of trustees occurs. The revised law adopts the general rule of the present Chapter 19 that the first election of trustees occurs simultaneously with the conversion election.

Section 19.135 of the present Chapter 19, which is almost identical to Sec. 19.105 but applies only to rural high school districts located in a single county, is omitted under the fourth revisor's note following this subchapter.

Revisor's Note
(End of Subchapter)

(1) The revised law omits Sec. 19.206, which provides an alternate method of converting a common school district with a school of 12 grades into an independent school district. Prior to 1979, Sec. 19.201 allowed only common districts that met size and value requirements to convert. With elimination of all qualifications in 1979, Sec. 19.206 is no longer necessary as an alternate method for converting into an independent school district. The only substantial difference between the general method and that specified in the omitted section is the time at which the first board of trustees is elected. The omitted section reads:

Sec. 19.206. CONVERSION OF DISTRICT WITH 12-GRADE SCHOOL. (a) Any common
school district in which there is
maintained an accredited school of 12
grades, including a high school offering 16
or more credits, may become an independent
school district under the terms of this
section.

(b) A petition signed by 20 or a
majority of the legally qualified property
taxpaying voters residing in the common
school district and praying for an election
to determine whether the common school
district shall be incorporated shall be
presented to the county judge.

(c) Upon receipt of the petition,
the county judge shall issue an order
calling for an election to be held not less
than 20 nor more than 30 days from the date
of the filing of the petition for the
purpose of determining whether the common
school district shall be converted into an
independent school district.

(d) After the election is held, the
commissioners court shall canvass the
returns thereof as in other similar
elections and declare the results thereof.
If the majority of the votes cast favor the
change from common school district to
independent school district, the county
school trustees or county board of
education, as the case may be, shall:

(1) pass such order or orders
as may be necessary creating the
independent school district; and
(2) appoint a board of seven
members, all of whom shall possess the
qualifications of school trustees and all
of whom shall serve until the next regular
trustee election under the laws of this
state, at which time seven members shall be
elected.

(2) The revised law omits Sec. 19.204 of the
present Chapter 19 because the election is governed by
Sec. 19.003 of this revision. The omitted section
reads:

Sec. 19.204. ELECTION. The election
shall be held under the provisions of the
laws of this State regulating general
elections except as otherwise provided
herein. Only qualified voters who are
residents of the common school district
proposed to be incorporated shall be
entitled to vote. The officers holding the
election shall make returns of the results
thereof to the county judge. The county
judge shall canvass the returns and declare
the results of the election.

(3) The revised law omits Sec. 19.207 of the
present Chapter 19 as an unnecessary statement of what
the law is without that section. The omitted section reads:

Sec. 19.207. LAW GOVERNING DISTRICT.
Any independent school district established in compliance with this subchapter shall be
governed and controlled as provided in Chapter 23 of this code.

(4) The revised law omits Subchapter E of the present Chapter 19, which relates to creation,
conversion, and abolition of rural high school districts. Blanket Rural High School District in Brown
and Comanche counties is the sole remaining rural high school district and none will be created in the future.
Conversion of that rural high school district to an independent school district is provided for by
Subchapter D of this revision, and abolition of the district is provided for by Subchapter G.

The omitted subchapter reads:

SUBCHAPTER E. RURAL HIGH SCHOOL
DISTRICTS—CREATION, CONVERSION, ETC.

Sec. 19.131. ESTABLISHMENT OF RURAL
HIGH SCHOOL DISTRICTS. The county school
trustees or county board of education, as the case may be, in each county in this
state shall have the authority to form one or more rural high school districts by
grouping contiguous common school districts having fewer than 400 scholastic population
and independent school districts having fewer than 250 scholastic population.

Sec. 19.132. LIMITATIONS. No rural high school district shall contain a greater area than 100 square miles or more than 10 elementary school districts, except that:

(1) The county school trustees or county board of education may create a rural high school district containing more than 100 square miles when so authorized by the vote of a majority of the qualified electors in the proposed rural high school district voting at an election called for that purpose.

(2) The county school trustees or county board of education may create a rural high school district containing more than 10 elementary districts when so authorized by the vote of a majority of the qualified electors of each elementary district in the proposed rural high school
district voting at an election called for that purpose.

Sec. 19.133. STATUS. A rural high school district shall be classified as a common school district, and all other districts, whether common or independent, composing the rural high school district shall be referred to as elementary school districts.

Sec. 19.134. TRANSFER OF CONTROL. The board of trustees of each elementary school district grouped or included to form a rural high school district, as hereinabove provided, shall continue in control of its respective district until the close of the current scholastic year, but it shall make no contract affecting the expenditure of any school funds subsequent to September 1 nor shall it have any authority in the management and control of the schools of the district after September 1. The board of trustees for the rural high school district shall, immediately upon its organization, proceed to make contracts for the operation of all schools under its control.

Sec. 19.135. CONVERSION OF RURAL HIGH SCHOOL DISTRICT INTO INDEPENDENT SCHOOL DISTRICT. (a) A rural high school district in which there is maintained an accredited school system of 12 grades, including a high school offering 16 or more credits, may be converted into an independent school district as prescribed by this section.

(b) A petition signed by 20 or a majority of the qualified property taxpayers residing in the district and praying for an election to determine whether the rural high school district shall be incorporated for free school purposes only shall be presented to the county judge.

(c) Upon receipt of the petition, the county judge shall issue an order calling for an election to be held not less than 20 nor more than 30 days from the date of filing the petition, for the purpose of converting the rural high school district into an independent school district for school purposes.

(d) After the election is held, the commissioners court shall canvass the returns and declare the result of the election.

(e) If a majority of the votes cast favor the change from a rural high school district into an independent school district, the commissioners court shall:

(1) enter its order incorporating the independent school district; and

(2) cause a certified copy of the order to be recorded by the county clerk in the deed records of the county.
(f) An independent school district created under this section shall be regarded as duly incorporated for free school purposes only and shall be vested with all the rights, powers, and privileges conferred and imposed upon independent school districts as provided in Chapter 23 of this code.

(g) When any independent school district is incorporated under the terms of this section, the members of the board of trustees of the rural high school district shall maintain their status as trustees of the newly incorporated independent school district and shall continue to serve until their respective terms of office expire.

(h) The titles and rights to all property owned, held, set apart, or in any way dedicated to the use of the public schools of the elementary school districts comprising the rural high school district for school purposes only, shall, after incorporating under this section, be vested in the board of trustees of the independent school district, and shall be managed and controlled by the board of trustees as is now or may hereafter be provided by law.

(i) All bonds issued by and outstanding against the rural high school district, as a school district, and all obligations, contracts, and indebtedness existing against the rural high school district, shall become the obligations and debts of the independent school district at the time of its incorporation.

Sec. 19.136. ABOLITION OF RURAL HIGH SCHOOL DISTRICT. (a) The county school trustees or county board of education, as the case may be, shall have the authority to abolish a rural high school district on a petition signed by a majority of the voters of each elementary school district composing the rural high school district.

(b) When a rural high school district has been abolished, each district of which it was composed shall revert back to its original status with the exception that, in the event there is any outstanding indebtedness against the rural high school district, each component district shall assume its proportional part of the debts, bonded or otherwise.

[Sections 19.127-19.150 reserved for expansion]
SUBCHAPTER G. ABOLITION OF INDEPENDENT SCHOOL DISTRICT

Revised Law

Sec. 19.151. ELIGIBILITY. Any independent school district may be abolished in the manner provided by this subchapter. (Sec. 19.361.)

Source Law

Sec. 19.361. ABOLITION OF INDEPENDENT SCHOOL DISTRICTS. Subject to the limitation on elections in Section 19.365 of this code, any independent school district incorporated for free school purposes under the laws of Texas may be abolished in the manner provided by this subchapter.

Revised Law

Sec. 19.152. PETITION. Abolition of an independent school district is initiated by a petition requesting an election on the question. The petition must be presented to the county judge of each county in which part of the independent school district is situated. (Sec. 19.362.)

Source Law

Sec. 19.362. PETITION. A petition requesting the abolition of the district and signed by at least 10 percent of the qualified voters residing in the district shall be presented to the county judge of the county in which the independent school district or a part thereof is situated.

Revisor's Note

(1) The revised law provides for a method of abolishing a county-line independent school district. The existing law implies that a county-line district may be abolished in accordance with its provisions, but does not expressly address the manner in which abolition occurs. The revised law adopts a manner similar to that in which county-line consolidated
districts are created or abolished.
(2) The number of signatures required is
governed by Sec. 19.003 of this revision.

Revised Law
Sec. 19.153. ELECTION. (a) Each county judge receiving a
valid petition shall:
(1) issue an order for an election to be held on the
same day in each county; and
(2) give notice of the election.
(b) The ballot in the election shall be printed to provide
for voting for or against the proposition: "Abolition of the
Independent School District." (Sec. 19.363.)

Source Law
Sec. 19.363. ELECTION. (a) Upon the receipt of
such a petition, the county judge shall:
(1) issue an order designating the time
and place within the school district and within the
county of his court at which there shall be held an
election to determine whether the independent school
district shall be abolished;
(2) appoint to preside at the election an
officer who shall select two judges and two clerks to
assist in holding the election; and
(3) cause notice of the election to be
given by posting advertisement for at least ten days
prior to the date of the election at three public
places within the independent school district.
(b) Except as herein provided, the election
shall be held in the manner prescribed by law for
holding general elections.
(c) All persons who are legally qualified voters
of the state and of the county in which the independent
school district or part thereof is situated and who
have resided within the independent school district for
at least six months next preceding shall be entitled to
vote.
(d) The officers holding the election shall make
return thereof to the county judge within 10 days after
the election is held.

Revisor's Note
(1) Most of the substance of Sec. 19.363 of the
present Chapter 19 is covered by Sec. 19.003 of this
(2) The revised law adds the ballot proposition so that this subchapter is consistent with those subchapters that provide a ballot proposition. The statutory proposition ensures that elections of this type are consistent throughout the state.

Revised Law

Sec. 19.154. ORDER ABOLISHING DISTRICT. (a) The commissioners court of each county shall canvass the returns of the election in its county.

(b) If a majority of the total votes cast in the district favor abolishing the district, each commissioners court shall declare the results. The abolition is effective only if all territory of the district is annexed to other contiguous districts.

(Sec. 19.364.)

Source Law

Sec. 19.364. ORDER ABOLISHING DISTRICT. If a majority of the voters, voting at the election, shall vote to abolish the independent school district, the county judge shall declare the independent school district abolished and enter an order to that effect upon the minutes of the commissioners court and from the date of such order, the independent school district shall cease to exist.

Revisor's Note

The revised law provides for declaration of the election results rather than an order abolishing the district because Sec. 19.155 requires that the abolition is effective only if the territory of the abolished district is annexed to contiguous districts that agree to the annexation. In addition, Sec. 19.005 of this revision provides an effective date of July 1 for most purposes.
Sec. 19.155. DISPOSITION OF TERRITORY, ETC. (a) The property and affairs of the abolished district are governed by this section unless otherwise controlled by the manner in which the district was abolished.

(b) Each county commissioners court shall annex the territory of the abolished independent school district in its county to one or more contiguous districts in the county. The commissioners court may annex territory to a school district only if the board of trustees of that district approves the annexation.

(c) Title to the real property of the abolished district vests in the district to which the property is annexed.

(d) If at the time of its abolishment the independent school district had no outstanding indebtedness, all uncollected taxes on the property of the district for the years up to and including the last day of January of the year immediately following that in which the independent school district is abolished shall be levied and collected, at the same rate and in the same manner as authorized for the independent school district immediately prior to its abolishment, by the school district or districts to which the territory containing the property on which taxes are due has been annexed.

(e) Each school district to which territory from the abolished district is annexed assumes and is liable for the indebtedness of the abolished district that is allocated to the district under Section 19.004 of this code.

(f) Any creditor of an abolished independent school district must file his claim against the district with the county commissioners court within 60 days after the independent school district has been abolished and, if the claim is not allowed, may maintain suit against the abolished independent school district as such. Suit must be brought not later than one year after the date on which the claim is disallowed. Service in a suit, if necessary,
may be had on the county judge of each county in which the district
was located. The county commissioners court shall defend any suit
against an abolished independent school district but may settle the
litigation as it considers advisable. This section does not waive
any defense available to the abolished district. (Secs. 19.366,
19.368.)

Source Law

Sec. 19.366. DISPOSITION OF TERRITORY. All of
the territory of an abolished independent school
district must be created into a common school district
or be annexed to or included within some other
contiguous district or districts, and its property and
affairs, unless otherwise controlled by the manner in
which the district was abolished, shall be regulated as
herein provided.

Sec. 19.368. TERRITORY FORMERLY SINGLE DISTRICT
OR PARTS OF SEVERAL DISTRICTS. (a) Upon the
abolishment of an independent school district created
out of territory formerly comprising a single common
school district and/or consisting of parts of several
districts and/or districts annexed thereto, the county
governing board shall contain or embrace the territory
of the abolished independent school district into a
newly created common school district or shall annex the
territory to one or more contiguous districts.
(b) When all the territory embraced within the
abolished independent school district is created into a
common school district or is annexed to or included
within the limits of one other district, title to all
property, both real and personal, belonging to the
abolished independent school districts shall be vested
in the other school district or its governing officers.
(c) When the territory of the abolished
independent school district is subdivided and annexed
to two or more other school districts, all real
property, improvements, and appurtenances belonging to
the abolished independent school district shall become
the property of the districts to which these properties
are annexed, and all personal property shall be divided
between the receiving districts in proportion to the
assessed property value of the part of the abolished
independent school district so annexed.
(d) When at the time of its abolishment the
independent school district had no outstanding
indebtedness, all uncollected taxes on the property of
the district for the years up to and including the last
day of January of the year immediately following that
in which the independent school district is abolished
shall be levied and collected, at the same rate and in
the same manner as authorized for the independent
school district immediately prior to its abolishment,
by the school district or districts to which the
territory containing the property upon which taxes are
due has been annexed.
(e) When at the time of its abolishment the
independent school district had outstanding bonds or
other indebtedness, enforceable either at law or in
equity, the school district or districts to which the
territory of the abolished independent school district
has been annexed may, at an election held for that
purpose, assume such bonds or other indebtedness. The
election shall be held in the manner provided for
holding an election for voting bonds or for voting a
special tax, as the case may be, within the receiving
school district as provided in Chapter 20 of this code.
If a majority of the qualified property tax paying
voters within the receiving district vote in favor of
assuming the indebtedness, all property within the
receiving district, not exempt under the general law,
shall be subject to taxation for the payment of the
bonds or other indebtedness of the abolished
independent school district, and the proper officers of
the receiving district shall levy upon the property of
the district a tax adequate for the payment of the
bonds or other indebtedness over such a period of time
as may be necessary for that purpose.

(f) In the event the qualified taxpaying voters
of the receiving district or districts do not by
majority vote assume the outstanding bonds and other
indebtedness of the abolished independent school
district, all taxes against the property of the
abolished independent school district shall remain in
full force and effect and shall be levied and collected
by the proper officers of the district or districts to
which the territory of the abolished independent school
district has been annexed until the entire indebtedness
is fully paid.

(g) In the event the qualified taxpaying voters
of the receiving district or districts do not by
majority vote assume the outstanding bonds and other
indebtedness of the abolished independent school
district, the county school trustees or county board of
education, as the case may be, shall manage, control or
dispose of all property within the county belonging to
the abolished independent school district. The county
governing board shall have the power to do any and all
things necessary for the payment of such bonds or other
indebtedness which the independent school district, or
the trustees thereof, could have done had the
abolished school district not been abolished. The
county governing board shall also have the power to
levy and collect taxes, and the power to bring and
defend litigation in the name of the independent school
district.

(h) Any creditor of an abolished independent
school district shall file his claim against the
district with the county school trustees or county
board of education, as the case may be, within 60 days
after the independent school district has been
abolished and, if the claim is not allowed, may
maintain suit against the abolished independent school
district as such. Service in a suit, if necessary, may
be had upon the chief officer of the county governing
board. The county governing board shall defend any
suit against an abolished independent school but may,
in its discretion, make such settlement of the
litigation as may be deemed advisable.
Revisor's Note

The revised law differs from the source law in several ways recommended by the advisory committee. The revised law requires that the abolition take effect only if all of the territory of the abolished district is annexed to contiguous districts that agree to the annexation. The purpose of the requirement is to prevent districts from accomplishing by abolition what could not be accomplished through other methods of detachment and annexation. The revised law also adds a one-year statute of limitations for creditors' claims against the abolished district, and clearly provides that the authority to sue on those claims is not a waiver of any defense that the district is entitled to claim.

Revisor's Note
(End of Subchapter)

(1) The revised law omits Sec. 19.365 of the present Chapter 19 because a uniform time limitation is provided by Sec. 19.002 of this revision. The omitted section reads:

Sec. 19.365. LIMITATION ON ELECTIONS. Within any 12-month period not more than one election shall be held on either:
(1) the question of abolishing an independent school district; or
(2) the question of creating an independent school district out of territory formerly comprising an independent district which has been abolished within the preceding 12 months.

(2) The revised law omits Sec. 19.367 of the present Chapter 19 in order to avoid creation of common school districts. The disposition of territory following abolition of any independent school district, regardless of the classification of its component
districts, is governed by Sec. 19.155 of the revision.

The omitted section reads:

Sec. 19.367. TERRITORY FORMERLY TWO OR MORE COMMON SCHOOL DISTRICTS. (a) Upon the abolishment of an independent school district heretofore created by local or special law out of territory theretofore containing two or more common school districts, the common school districts shall immediately come into existence by operation of law with the same boundaries they had prior to the creation of the independent school district.

(b) All funds, property, rights, and liabilities of the abolished independent school district may be divided between the common school districts by agreement of the trustees of the common school districts.

(c) In the event the district trustees are unable to agree, the county governing board shall apportion the funds, property, rights, and liabilities of the abolished independent district between the common school districts in an equitable and just manner, taking into consideration the property owned and the assets and liabilities of each common school district at the time of the creation of the independent district as well as the assets and liabilities coming into existence after the formation of the independent district.

(d) Any bonds issued by one of the common school districts prior to the creation of the independent school district shall be paid and retired by the common school district issuing the same. Taxes for the payment of the bonded indebtedness shall be levied and collected in the same manner as other taxes voted by a common school district. Any amounts paid of the abolished independent school district in connection with such bond issue shall be paid back by the common school district issuing the bonds to such an extent as will be necessary to reimburse the other common school district or districts for its or their proportionate part of the payment.

(e) Any debt incurred by the abolished independent school district, the benefits of which will accrue particularly to one of the common school districts, shall be taken over by that common school district.

(f) High school children in a common school district within the territory of the abolished independent school district shall have the right to attend, without tuition, any other common school district within the territory formerly composing the independent school district provided the common school district so chosen does not have a scholastic population of more than 350.
SUBCHAPTER H. ABOLITION OF COMMON SCHOOL DISTRICT

Revised Law
Sec. 19.171. AUTHORITY OF COMMISSIONERS COURT. (a) The commissioners court may abolish and annex any common school district located entirely within its county if a formal application or request is submitted by the trustees of the common school district. The application or request does not affect the authority of the commissioners court to determine if the common school district should be abolished and annexed.

(b) The commissioners court shall annex the territory of the abolished district to one or more contiguous independent school districts located entirely within its county, in such manner as may be determined by order of the commissioners court. (Sec. 19.401.)

Source Law
Sec. 19.401. AUTHORITY OF COUNTY GOVERNING BOARD. (a) The county school trustees or county board of education, as the case may be, may abolish and annex or subdivide any common school district located entirely within its county, provided that a formal application or request is submitted by the trustees of the common school district. Said application or request shall not affect the authority of the county school trustees or county board of education, as the case may be, to determine if the common school district should be abolished, annexed or subdivided.

(b) The territory of the district so abolished shall be annexed to a single contiguous independent school district, or subdivided and annexed to one or more contiguous independent school districts located entirely within its county, in such manner as may be determined by order of the county governing board.

Revised Law
Sec. 19.172. TITLE TO PROPERTY; ASSUMPTION OF DEBT. (a) Title to the real property of the abolished school district vests in the district to which the property is annexed.

(b) Each district to which territory of the abolished school
district is annexed assumes and is liable for any portion of the
abolished district's indebtedness that is allocated to the
receiving district under Section 19.004 of this code. (Sec.
19.402.)

Source Law

Sec. 19.402. ADJUSTMENT OF BONDED DEBT. The
county governing board shall also, at the time of
abolishing or subdividing a common school district,
make an adjustment of outstanding bonded indebtedness,
if there be such, and provide for an equitable,
distribution of all district properties as specified in
Subchapter N of this chapter.

Revisor's Note

Adjustment of bonded indebtedness is governed by
Sec. 19.004 of this revision.

Revisor's Note
(End of Subchapter)

The revised law omits Sec. 19.403 of the present
Chapter 19 in order to conform appeal of the
commissioners court action under this subchapter to
appeals under the other provisions of this chapter.
The general rule is that the appeal must first go to
the commissioner of education under Sec. 11.13, Texas
Education Code. The omitted section reads:

Sec. 19.403. APPEAL. Any trustee or
any resident of a district or territory
affected by the action of the county
governing board, as authorized by this
subchapter, may appeal from the decision of
the county governing board to the district
court of the county in which the governing
board acts.

Revisor's Note
(End of Chapter)

The revised law omits Subchapter D of the present
Chapter 19. Sections 19.101-19.104 relate to the
creation of county-line common school districts and county-line rural high school districts. Current state policy, as evidenced by Subchapter G, Chapter 17, does not favor the creation of common school districts. Section 19.106 relates to creation of a county-line independent school district but is probably not operative because it appears to involve incorporation of the district out of territory not included in other districts. (The cross-reference to incorporation of towns and villages refers to Chapter 11, Title 28, Revised Statutes, under which only unincorporated territory may be incorporated.) Under the provisions of Sec. 19.247 of the present Chapter 19 (Sec. 19.026 of this revision), all territory in the state is within the limits of a school district. The omitted provisions read:

**SUBCHAPTER D. COUNTY-LINE DISTRICTS**

Sec. 19.101. CREATION OF COUNTY-LINE COMMON SCHOOL DISTRICTS. (a) The county school trustees and/or county boards of education of two or more adjoining counties shall have the authority, in compliance with the provisions of this section, to create common school districts to contain territory in two or more counties. (b) No county-line common school district shall be created with or changed to an area less than nine square miles. (c) Each county-line common school district shall be laid out in as near the shape of a square as possible, and in no event shall the length of the district be greater than one and one-half times its width. (d) The county governing board of each county having territory included in the proposed district shall pass an order which shall:

1. describe by metes and bounds the territory to be included in the district;
2. give the course and direction with the exact length of each line contained in the description and locate each corner called for upon the ground;
3. give the acres of each survey and parts of surveys of lands
included in the district;
(4) include a map showing the conditions upon the ground as described in the field notes and giving the number of acres of land contained in each survey and parts of surveys contained in each county;
(5) show the exact position and location of the county line in the territory proposed to be created into a county-line district; and
(6) designate and name one of the counties having territory included in the description of the proposed district which shall manage and have control of the public schools of the county-line district for all school purposes.
(e) The proposed district shall be deemed created and established when the order described in Subsection (d) of this section has been passed by the county governing board of each county having territory included therein.
Sec. 19.102. COUNTY-LINE RURAL HIGH SCHOOL DISTRICTS. (a) The county school trustees and/or county boards of education of two or more adjoining counties shall have the authority, upon the written order of a majority of the members of the governing board of each county concerned, to establish county-line rural high school districts. The order shall designate the county which shall have supervision of the county-line rural high school district.
(b) A county-line rural high school district, so established, shall be governed in all respects as other rural high school districts as provided in Chapter 25 of this code.
Sec. 19.103. JOINT MAINTENANCE. The county governing boards of each county having territory included within a county-line district shall have power to provide jointly for the maintenance of the county-line school.
Sec. 19.104. VOTER QUALIFICATIONS. All persons who are otherwise qualified to vote in an election involving a school district question and who reside in a county line school district shall be entitled to vote at any such election involving the school district regardless of whether or not such voters reside in the county having management and control of the county line district.
Sec. 19.105. [See Sec. 19.126 of this revision.]
Sec. 19.106. CREATION OF COUNTY-LINE INDEPENDENT SCHOOL DISTRICTS. (a) Independent school districts may be created containing territory within two or more counties by the same procedure that towns and villages are created by law for municipal purposes, except that the map required by the statute governing municipal incorporations shall also show the correct
location and position of the county-line or
lines involved in the incorporation of the
independent school district.

(b) An incorporated free school
district containing territory in two or
more counties shall have all the rights,
powers and privileges granted to any other
incorporations for free school purposes
only.

(c) The same modes, manners, and
methods of government and procedure
provided by Chapter 23 of this code for
independent school districts shall govern
the management and control of incorporated
school districts containing territory
within two or more counties.
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